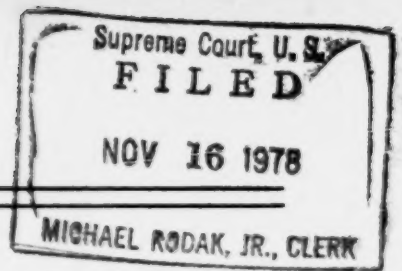


APPENDIX



**In the Supreme Court of the United States**  
OCTOBER TERM, 1978

No. 77-6540

HAROLD RAMSEY,

—against—

NEW YORK,

*Petitioner,*

*Respondent.*

ON WRIT OF CERTIORARI TO THE SUPREME COURT  
OF THE STATE OF NEW YORK, APPELLATE DIVISION,  
SECOND JUDICIAL DEPARTMENT

PETITION FOR CERTIORARI FILED APRIL 10, 1978  
CERTIORARI GRANTED OCTOBER 10, 1978

In the Supreme Court of the United States

OCTOBER TERM, 1978

No. 77-6540

HAROLD RAMSEY,

*Petitioner,*

—against—

NEW YORK,

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ON WRIT OF CERTIORARI TO THE SUPREME COURT  
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# RELEVANT DOCKET ENTRIES IN SUPREME COURT, KINGS COUNTY

Date	Part	Action	Judge
9/8/75	1A	Kings County Hospital Report Confirmed; Indictment No. 2588/75 Consolidated into Indictment No. 431/75; Defendant Pleads Guilty to Robbery in The Second Degree. Vetrano, J.	
12/19/75	1A	Plea Withdrawn—No Bail. Vetrano, J.	
1/13/76	10	Bail Set: \$2,500. Jordan, J.	
8/3/76	52	Wade Hearing. Held, J.	
8/4/76	52	Defendant Pleads Guilty to Robbery in The First Degree under Indictment No. 2588/75 to Cover Indictment No. 431/75. Held, J.	
9/17/76	52	Defendant Sentenced as Second Felony Offender to 6-12 Year Term of Imprisonment; Adjudged in Contempt of Court and Sentenced to 30 Days to be Served Prior to the Commencement of the Sentence Imposed on the Conviction. Held, J.	

SUPREME COURT OF THE  
STATE OF NEW YORK  
COUNTY OF KINGS

Indictment No. 2588/1975

[Filed June 6, 1975]

THE PEOPLE OF THE STATE OF NEW YORK

*against*

HAROLD RAMSEY, DEFENDANT

COUNTS

ROBBERY IN THE FIRST DEGREE  
(4 counts)

GRAND LARCENY IN THE THIRD DEGREE  
(4 counts)

FIRST COUNT

THE GRAND JURY OF THE COUNTY OF KINGS, by this indictment, accuse the defendant of the crime of ROBBERY IN THE FIRST DEGREE, committed as follows:

The defendant, on or about December 30, 1974, in the County of Kings, forcibly stole certain property from REBECCA WALKER, to wit: a quantity of United States Currency, and in the course of the commission of the crime and of immediate flight therefrom the defendant used and threatened the immediate use of a dangerous instrument.

SECOND COUNT

THE GRAND JURY OF THE COUNTY OF KINGS, by this indictment, accuse the defendant of the crime of ROBBERY IN THE FIRST DEGREE, committed as follows:

The defendant, on or about December 30, 1974, in the County of Kings, forcibly stole certain property from

REBECCA WALKER, to wit: a quantity of United States Currency, and in the course of the commission of the crime and of immediate flight therefrom, the defendant displayed what appeared to be a pistol, revolver or other firearm.

THIRD COUNT

THE GRAND JURY OF THE COUNTY OF KINGS, by this indictment, accuse the defendant of the crime of GRAND LARCENY IN THE THIRD DEGREE, committed as follows:

The defendant, on or about December 30, 1974, in the County of Kings, stole certain property from REBECCA WALKER, to wit: a quantity of United States Currency, having an aggregate value of more than two hundred and fifty dollars.

FOURTH COUNT

THE GRAND JURY OF THE COUNTY OF KINGS, by this indictment, accuse the defendant of the crime of GRAND LARCENY IN THE THIRD DEGREE, committed as follows:

The defendant, on or about December 30, 1974, in the County of Kings, stole and took from the person of REBECCA WALKER, certain property to wit: a quantity of United States Currency.

FIFTH COUNT

THE GRAND JURY OF THE COUNTY OF KINGS, by this indictment, accuse the defendant of the crime of ROBBERY IN THE FIRST DEGREE, committed as follows:

The defendant, on or about December 30, 1974, in the County of Kings, forcibly stole certain property from CORRINE MUNDY, to wit: a quantity of United States Currency, and in the course of the commission of the crime and of immediate flight therefrom the defendant used and threatened the immediate use of a dangerous instrument.



## SIXTH COUNT

THE GRAND JURY OF THE COUNTY OF KINGS, by this indictment, accuse the defendant of the crime of ROBBERY IN THE FIRST DEGREE, committed as follows:

The defendant, on or about December 30, 1974, in the County of Kings, forcibly stole certain property from CORRINE MUNDY, to wit: a quantity of United States Currency, and in the course of the commission of the crime and of immediate flight therefrom, the defendant displayed what appeared to be a pistol, revolver or other firearm.

## SEVENTH COUNT

THE GRAND JURY OF THE COUNTY OF KINGS, by this indictment, accuse the defendant of the crime of GRAND LARCENY IN THE THIRD DEGREE, committed as follows:

The defendant, on or about December 30, 1974, in the County of Kings, stole certain property from CORRINE MUNDY, to wit: a quantity of United States Currency having an aggregate value of more than two hundred and fifty dollars.

## EIGHTH COUNT

THE GRAND JURY OF THE COUNTY OF KINGS, by this indictment, accuse the defendant of the crime of GRAND LARCENY IN THE THIRD DEGREE, committed as follows:

The defendant, on or about December 30, 1974, in the County of Kings, stole and took from the person of CORRINE MUNDY, certain property to wit: a quantity of United States Currency.

/s/ Eugene Gold  
EUGENE GOLD  
District Attorney

SUPREME COURT OF THE  
STATE OF NEW YORK  
COUNTY OF KINGS  
CRIMINAL TERM  
PART 52

Ind. No. 2588/75

THE PEOPLE OF THE STATE OF NEW YORK

—against—

HAROLD RAMSEY, DEFENDANT

## MINUTES OF PLEA

August 4, 1976  
Supreme Court House  
Brooklyn, New York

BEFORE:

HON. GERALD S. HELD

APPEARANCES:

FOR THE PEOPLE

EUGENE GOLD, ESQ.

District Attorney—Kings County

BY: JOHN W. HESTER, ESQ., A.D.A.

FOR THE DEFENDANT

JOHN AVANZINO, ESQ.

[2] THE COURT: The defendant wishes to take a plea. You will have to move to consolidate for the purpose of the plea. He will plea to rob one and the promise will be six years minimum, twelve years maximum.

MR. HESTER: That is acceptable, Your Honor. At this time, the People move to consolidate Indictment 431 of '75 into Indictment 2588 or '75 for purposes of disposition.

THE COURT: Mr. Avanzino, I will hear you.

MR. AVANZINO: If Your Honor please, at this time, the defendant Harold Ramsey, previously pleaded not guilty to both Indictments, 431 of '75 and 2588 of '75 and now withdraws those pleas of not guilty to 431 of '75 and 2588 of '75, which are now merged into the Indictment of 2588 of '75 and hereby interposes a plea of guilty to robbery in the first degree, to Indictment Number 2588 of '75.

THE COURT: Mr. District Attorney.

MR. HESTER: Yes, Your Honor.

THE COURT: Do you have any objection to the application of the defendant?

MR. HESTER: No, Your Honor. It's satisfactory [3] to the People.

THE COURT: I want the District Attorney to be aware on the record as he is already aware off the record that I made a promise and the promise to be that the sentence will be a minimum six, a maximum of twelve, New York State Department of Correctional Services. Does the District Attorney take a position on sentence at this time?

MR. HESTER: No, Your Honor. No petition at this time nor will we take a position at the time that sentence is imposed by the Court.

THE COURT: I just want the record to show that you are aware of the promise and you continue to recommend acceptance of the plea, without necessarily taking a position one way or the other.

MR. HESTER: That is exactly the People's position.

THE COURT: All right, Harold Ramsey, is John Avanzino, standing next to you, your attorney?

THE DEFENDANT: Yes.

THE COURT: Do you understand that he has made an application on your part, on your behalf, to have you plead guilty to the crime of robbery in the first degree to cover Indictment No. 2588 for [4] the year 1975 and 431 for the year '75? Do you understand that?

THE DEFENDANT: Yes.

THE COURT: Do you understand that in doing so, you are giving up your right to a trial by jury, which we have already picked. We had our twelve jurors

and two alternates. Do you understand that, don't you? You have to answer yes or no. Can't shake your head.

THE DEFENDANT: Yes.

THE COURT: You are also giving up your right to confront the People's witnesses. You are giving up your right to be proven guilty beyond a reasonable doubt. You are giving up your right to certain constitutional safeguards, to protect your constitutional rights, such as, the identification hearing which we have completed but which I have not ruled upon. Do you understand that?

THE DEFENDANT: Yes.

THE COURT: Do you understand also that you are giving up your right of cross-examination of witnesses, to produce witnesses on your own behalf and to testify in your own behalf even though you have no obligation to do any of those things. Do [5] you understand that?

THE DEFENDANT: Yes.

THE COURT: Mr. Avanzino explained all of that to you?

THE DEFENDANT: Yes.

THE COURT: Are you satisfied with the legal services rendered on your behalf by your attorney, John Avanzino?

THE DEFENDANT: Yes.

THE COURT: Has anyone forced you or threatened you or convinced you, against your will, to take this plea of guilty?

THE DEFENDANT: No.

THE COURT: Are you pleading guilty because you are guilty and because you are voluntarily doing it?

THE DEFENDANT: Yes.

THE COURT: Now, I have made a promise to you and you have heard the promise but I am going to state it again to make sure we understand each other. I promise you that at the time of sentence, I will sentence you to a confinement of a minimum of six years, a maximum of twelve years. Is that your understanding of the promise?

[6] THE DEFENDANT: Yes.

THE COURT: Has anyone made you a promise which is different than mine just now?

THE DEFENDANT: No.

THE COURT: Has anyone told you anything different concerning sentence other than what I have just told you now?

THE DEFENDANT: No.

THE COURT: Are you totally reliant upon any promise and my promise only?

THE DEFENDANT: Yes.

THE COURT: Now, in all case, not just yours, but in all cases with all defendants, I always reserve to myself the right to break my promise if it turns out, in my discretion, I feel that I have to. Now, I don't know if I would have to and I don't think so at this moment. I know of no reason why I should have to break my promise to you at the time of sentence. But, always in every case, I always reserve to myself the right to break the promise if it turns out that I feel that I have to. If I break my promise, I will give you the right to withdraw your plea, to wipe the slate clean of what has just taken place now and restore you to [7] your original position of being not guilty to both Indictments. Do you understand and agree to that?

THE DEFENDANT: Yes.

THE COURT: Now, in order for me to accept your plea, I must have a statement from you. The statement must be truthful, it must be made of your own free will and accord and it must be a complete and full statement. Are you willing to make that kind of a statement?

THE DEFENDANT: Yes.

THE COURT: Then, tell me what took place in Brooklyn on December 30th, 1974, in the evening of that day at premises 776 Franklin Avenue, Brooklyn, New York, which is a beauty parlor.

THE DEFENDANT: Robbed the people.

THE COURT: You say that you robbed the people. Did you go in there with a gun?

THE DEFENDANT: Yes.

THE COURT: And what did you tell the people when you had the gun? Did you tell them that you wanted their money?

THE DEFENDANT: Yes.

THE COURT: Did you point the gun at them?

[8] THE DEFENDANT: Yes.

THE COURT: How much money did you take, approximately?

THE DEFENDANT: About \$150.00.

THE COURT: Is that statement satisfactory to the District Attorney?

MR. HESTER: Yes, Your Honor. I believe it makes out the elements of a robbery.

THE COURT: Does the District Attorney want a statement also on Indictment 431 of the year '75?

MR. HESTER: Yes, Your Honor.

THE COURT: Tell me then what took place in Brooklyn on January 20th, 1975 concerning yourself and a man by the name of Bobby Lawrence.

THE DEFENDANT: Robbed a store.

THE COURT: Did you have a weapon?

THE DEFENDANT: Yes.

THE COURT: What kind of a weapon did you have?

THE DEFENDANT: The co-defendant had the weapon.

THE COURT: Your co-defendant had a weapon. Did you know that he had a weapon?

THE DEFENDANT: Yes.

[9] THE COURT: When you went into the store with your co-defendant, why did you go in there? What was the reason for you going in there?

THE DEFENDANT: To rob the store.

THE COURT: Did you, in fact, rob the store?

THE DEFENDANT: Yes.

THE COURT: How much money did you take in that robbery, approximately?

THE DEFENDANT: I don't know. I never counted it.

THE COURT: Was it more than \$50.00?

THE DEFENDANT: I don't know.

THE COURT: Where did you get the money from, from the man's person or from a drawer or what?

THE DEFENDANT: Person and drawer.



THE COURT: Is this statement satisfactory to the People?

MR. HESTER: That is satisfactory, Your Honor.

THE COURT: I will ask the Clerk to kindly arraign the defendant. Take his plea.

THE CLERK OF THE COURT: What is your name?

THE DEFENDANT: Harold Ramsey.

THE CLERK OF THE COURT: Mr. John Avanzino, stands beside you, is he your attorney?

[10] THE DEFENDANT: Yes.

THE CLERK OF THE COURT: Before your plea of guilty is accepted, you are advised by direction of the Court that a plea is equivalent to a conviction after trial. You are further advised that if you have previously been convicted of a predicate felony as such is defined by Section 70.06 of the Penal Law that fact may be established after your plea of guilty in this action before this Court now and you will be subject to different or additional punishment.

Having been so advised, do you now withdraw your plea of not guilty previously entered to Indictment No. 2588 of '75 and now plead guilty to offense of robbery in the first degree, said offense being a Class B Felony? This plea to cover Indictment 431 of '75. You so plead guilty?

THE DEFENDANT: Yes.

THE CLERK OF THE COURT: Date of sentence?

THE COURT: Date of sentence, Tuesday, September 14th, if that is convenient for counsel.

MR. AVANZINO: Could Your Honor make that the following Tuesday? Would that be possible, Judge?

THE COURT: No, because—I don't want to [11] give Probation any more than the five weeks that they require.

MR. AVANZINO: Could Your Honor make it sometime later in that week? Would that be permissible or acceptable to Your Honor?

THE COURT: If it will convenience counsel, I will do it. What date do you want?

MR. AVANZINO: I would like Friday, September 17th, if I can have it.

THE COURT: Okay, Friday, September 17th for sentence.

THE CLERK OF THE COURT: Remand the defendant.

\* \* \*

CERTIFIED TO BE A TRUE AND CORRECT  
TRANSCRIPT OF MINUTES IN THIS CASE

/s/ Lawrence Fields  
LAWRENCE FIELDS  
Official Court Reporter



SUPREME COURT OF THE  
STATE OF NEW YORK  
COUNTY OF KINGS

Indictment Nos. 431/75 and 2588/75

THE PEOPLE OF THE STATE OF NEW YORK

—against—

HAROLD RAMSEY, DEFENDANT

NOTICE OF MOTION TO WITHDRAW PLEA OF  
GUILTY—TO BE REFERRED TO THE  
HON. MR. JUSTICE GERALD HELD

Dated September 10, 1976

SIR:

PLEASE TAKE NOTICE that upon the annexed affidavits of HAROLD RAMSEY, and JOHN B. AVANZINO, ESQ., duly sworn to the 10th day of September, 1976, and upon all the papers and proceedings heretofore had herein, the undersigned will move this Court at Criminal Term, Part I thereof, held in and for the County of Kings, at the Supreme Court Building, 360 Adams Street, on the 22nd day of September 1976, at 9:30 in the forenoon of that day or as soon thereafter as counsel can be heard for an order, pursuant to Section 220.60 (Subd 3) Code of Criminal Procedure, permitting the above-named defendant to withdraw his plea of guilty heretofore interposed, and to enter a plea of not guilty to indictment Nos. 431/75 and 2588/75, and for such other and further relief as to this Court may seem just and proper.

Dated: Brooklyn, New York  
September 10, 1976

Yours, etc.,

JOHN B. AVANZINO  
Attorney for def. by assignment  
Office & P.O. Address  
25 Plaza Street  
Brooklyn, New York 11217  
212-638-5957

TO: HON. EUGENE GOLD,  
District Attorney, Kings Cty.  
Municipal Building  
Brooklyn, New York 11201

SUPREME COURT OF THE  
STATE OF NEW YORK  
COUNTY OF KINGS

THE PEOPLE OF THE STATE OF NEW YORK

—against—

HAROLD RAMSEY, DEFENDANT

STATE OF NEW YORK    )  
                              ) ss.:  
COUNTY OF KINGS     )

AFFIDAVIT OF PETITIONER,  
SWORN TO ON SEPTEMBER 10, 1976

HAROLD RAMSEY, being duly sworn, deposes and says:—

1. I am the defendant herein, indicted under indictment nos 431/75 and 2588/75, charged with Robbery I under each indictment, and make this affidavit in support of the instant application to withdraw my plea of guilty interposed August 4, 1976.

2. I was arrested on January 20, 1975 and have been in jail ever since.

3. On August 2, 1976, my trial was started in Part 52 Criminal Term, Supreme Court, Kings County, before the Hon. Mr. Justice Gerald Held. On that date, after a conference at the Bench with my assigned counsel, the Asst. District Attorney and the trial judge, I was offered a term of 3½ years minimum to 7 years maximum to cover both indictments. I repeated to my attorney that I was innocent and asked to go on with the trial.

4. On August 4, 1976, after a Wade Hearing held in Part 52, I was informed by the trial judge, through my assigned counsel that if I went to trial and was convicted, I would be sentenced to 12½ years minimum and 25 years maximum. Upon hearing this staggering jail sentence, and being wearied by having already spent so much time in jail, to wit, 1½ years awaiting trial, I

jumped at the offer of a lesser jail term, and against my better judgment, pleaded guilty to crimes I did not commit. Upon reflection, I realize that I was confused, afraid, and did not fully understand the consequences of taking a guilty plea.

WHEREFORE, I respectfully pray that I be permitted to withdraw the plea of guilty interposed August 4, 1976, and in its stead, to interpose a plea of not guilty to both indictments, namely 431/75 and 2588/75.

/s/ Harold Ramsey  
HAROLD RAMSEY

[Jurat (omitted in printing)]

SUPREME COURT OF THE  
STATE OF NEW YORK  
COUNTY OF KINGS

THE PEOPLE OF THE STATE OF NEW YORK

—against—

HAROLD RAMSEY, DEFENDANT

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF KINGS )

AFFIDAVIT OF DEFENSE COUNSEL  
JOHN AVANZINO, SWORN TO ON  
SEPTEMBER 10, 1976

JOHN B. AVANZINO, being duly sworn, deposes and says:

1. I am 18B attorney for the defendant herein, having been assigned to his defense on July 23, 1976 by the Hon. Mr. Justice Frank Vaccaro.

2. That since the inception of my assignment to defend him the defendant has maintained his innocence to the charges against him under Indictment Nos. 431/75 and 2588/75.

3. That on August 2, 1976, at the trial of the within matter, the Hon. Mr. Justice Gerald Held and the District Attorney's office offered the defendant 3½ years minimum to 7 years maximum. The defendant, repeating his innocence to me, refused the offer and asked to proceed to trial.

4. That on August 4, 1976, a Wade Hearing was conducted before the Hon. Mr. Justice Gerald Held, and prior to the determination thereof, the defendant was offered 6-12 years, and after consultation with me, the defendant took the guilty plea.

5. That thereafter on or about August 10, 1976, defendant called me and said he wanted to withdraw his guilty plea.

6. At a conference held with me at the Brooklyn House of Detention on September 2, 1976, the defendant told me that at the time he took the plea he was confused and afraid and that he didn't fully understand the consequences of his plea, and that now that he had time to think about it, he wanted to withdraw his plea of guilty.

WHEREFORE, since the defendant has so steadfastly maintained his innocence to the charges against him, in the interest of justice, it is respectfully prayed that the defendant be permitted to withdraw his plea of guilty and that the issue of his guilt or innocence be decided by a jury of his peers.

/s/ John B. Avanzino  
JOHN B. AVANZINO

[Jurat (omitted in printing)]

SUPREME COURT OF THE  
STATE OF NEW YORK  
COUNTY OF KINGS  
CRIMINAL TERM  
PART 52

(Ind. 2588/75)

THE PEOPLE OF THE STATE OF NEW YORK

—against—

HAROLD RAMSEY, DEFENDANT

MINUTES OF SENTENCE,  
DATED SEPTEMBER 17, 1976

Brooklyn, New York

BEFORE:

HON. GERALD S. HELD, Justice.

APPEARANCES:

NORMAN SILVERMAN, ESQ.,  
Assistant District Attorney  
For the People

JOHN BAVANZINO, ESQ.,  
Attorney for the Defendant.

[2] THE CLERK: Indictment 2588 of 1975, Harold Ramsey.

MR. SILVERMAN: If it please the Court, I am serving copy of the predicate felony statement to the attorney for the defendant.

The Defendant is also standing alongside of him, and I am filing the original with the Clerk of the Court.

THE COURT: Arraign the defendant as a predicate felon.

THE CLERK: What is your name?

MR. BAVANZINO: If Your Honor please, before the arraignment commences, I would like to apprise the

Court of the fact that on the 10th of September, I filed a notice of motion.

THE COURT: I am aware of that, and we are advancing it.

It is to vacate the plea, correct?

MR. BAVANZINO: Correct, Judge.

THE COURT: But, first let me get the preliminaries out of the way. Let's see if your client is a predicate felon, and then we will [3] determine whether or not we should vacate his plea or not, and if yes, yes.

If no, I will sentence him as a predicate felon.

Is there any objection to that procedure?

MR. BAVANZINO: No, sir.

THE COURT: Okay, fine.

THE CLERK: What is your name?

THE DEFENDANT: Harold Ramsey.

THE CLERK: Harold Ramsey, is Mr. John Bavan-zino standing besides you, is he your attorney?

THE DEFENDANT: Yes, he is.

THE CLERK: Pursuant to Section 400.21 of the Criminal Procedure Law, the District Attorney has filed a statement with the Court alleging that prior to the commission of the felony for which you now stand convicted, you have previously been convicted of and sentenced as a predicate felon, and you may be a second felony offender as defined in Section 70.06 of the Penal Law.

I ask you if you have received a copy of [4] that statement?

THE DEFENDANT: Yes.

THE CLERK: By direction of the Court, you will now be advised of your rights in this matter.

If you wish to controvert any allegation in the statement, you must specify the particular allegation or allegations you wish to controvert. Any uncontroverted allegations shall be deemed to have been admitted by you.

The question to be determined is whether or not you wish to controvert any allegation made in the statement.

Where the uncontroverted allegation in the statement are sufficient to support a finding that you have been



subjected to a predicate felony conviction, the Court must enter such finding and when imposing sentence, must sentence you as a second felony offender in accordance with the provisions of Section 70.06 of the Penal Law.

In the event the controverted allegation [5] in the statement and the uncontroverted allegations are not sufficient to support the finding that you have been subjected to a predicate felony conviction, second felony conviction, the Court will conduct a hearing to determine the issue or issues so created.

You are also advised that you may raise an objection that a previous conviction alleged in the statement was obtained in violation of your rights under the applicable provisions of the Constitution of the United States, whether it be a prior conviction of this or any other jurisdiction.

If you raise such objection, it will be entered in the record and will be determined after a hearing by the Court without a Jury.

You are further advised your failure to challenge previous convictions shall constitute a waiver on your part of any allegation or unconstitutionality unless good cause be shown for your failure to make a timely challenge.

You are represented by your attorney, Mr. [6] Bavanzino, and you now stand besides him.

You may consult with him and give us your decision. Please answer the following question:

Have you read the statement?

THE DEFENDANT: Yes.

THE CLERK: Do you wish to controvert any allegation made in the statement?

THE DEFENDANT: No.

THE CLERK: Do you raise the objection that any previous conviction alleged in the statement was obtained in violation of your constitutional rights?

THE DEFENDANT: No.

THE CLERK: The defendant does not raise any controversion nor does he challenge the constitutionality of the prior convictions.

THE COURT: For the purposes of the sentence, he is adjudicated a prior predicate felon, second felony offender.

Now, we have a motion before us.

Would you state the nature of that motion [7] that we are advancing?

I know it was on for a later date. We are advancing it at this date, and the District Attorney has no objection to that.

It is a motion to vacate the plea, is that correct?

MR. BAVANZINO: Yes, Your Honor.

THE COURT: Mr. District Attorney?

MR. SILVERMAN: I have no notice of it, your Honor.

THE COURT: Well, we will take a look at it.

MR. SILVERMAN: I have no objection.

THE COURT: Do you have any objection to advancing it for today?

MR. SILVERMAN: No, I do not, your Honor.

THE COURT: And, the defense counsel waives any written reply rather than taking oral arguments, is that correct?

MR. BAVANZINO: Yes.

THE COURT: All right.

Mr. Bavanzino, as I understand it, your [8] client wishes to withdraw his plea and says that he entered into the plea because he was mixed up and confused, upset, acting under duress, misguided, and also he is innocent, that is basically correct, sir?

MR. BAVANZINO: First, if your Honor please—

THE COURT: Your client nods his head yes, I state that for the record.

MR. BAVANZINO: If Your Honor please, I would like to state this to the Court.

THE COURT: Certainly.

MR. BAVANZINO: Your Honor, has lumped the two affidavits together, mine and Mr. Ramsey's.

THE COURT: I am taking all the contentions at once.

MR. BAVANZINO: My affidavit is one and his affidavit is another, your Honor, and as to the subject of my affidavit, that is what I said.

As to the subject of his affidavit, that is what he said, but based upon that I have no objection.

THE COURT: Mr. Bavanzino, I do not mean [9] to attribute all of those to you or all of those to him, but rather, I am saying that is the conglomerate or the whole situation, right?

MR. BAVANZINO: That is the overall picture, yes, Your Honor.

THE COURT: Now, I want to read into the record from the plea minutes of August 4, 1976, certain statements that were made.

"THE COURT: Do you understand that your lawyer has made an application on your behalf to have you plead guilty to the crimes of Robbery in the First Degree and cover indictment 2588 of 1975, and 431 of 1975; do you understand that?

"THE DEFENDANT: Yes.

"THE COURT: Do you understand in doing so, you are giving up your right to trial by Jury, which we have already picked. We had our twelve Jurors and two alternates. Do you understand that; you have to answer yes or no.

You cannot shake your head.

"THE DEFENDANT: Yes.

And then later on it goes on like this:

"THE COURT: Are you satisfied with the [10] legal services rendered on your behalf by your attorney, John Bavanzino?

"THE DEFENDANT: Yes.

"THE COURT: Has anyone forced you or threatened you or convinced you against your will to take this plea of guilty?

"THE DEFENDANT: No.

"THE COURT: Are you pleading guilty because you are guilty and because you're voluntarily doing so?

"THE DEFENDANT: Yes.

"THE COURT: Now I made a promise to you, and you heard the promise, but I am going to state it again to make sure we understand each other. I promise you at the time of sentence I will sentence you to confinement of a minimum of six years and a maximum of twelve years. Is that your understanding of the promise?

"THE DEFENDANT: Yes."

Going on later on in the minutes again.

"THE COURT: Now, in order for me to accept your plea, I must have a statement from you. The [11] statement must be truthful. It must be made of your own free will and accord and it must be a completely full statement.

"Are you willing to make that kind of a statement?

"THE DEFENDANT: Yes.

"THE COURT: Then tell me what took place in Brooklyn on December 30, 1974, in the evening of that date at premises 776 Franklin Avenue, Brooklyn, New York, which is a beauty parlor?

"THE DEFENDANT: Robbed the people.

"THE COURT: You say you robbed the people, did you go in there with a gun?

"THE DEFENDANT: Yes.

"THE COURT: And, what did you tell the people when you had the gun, did you tell them you wanted their money?

"THE DEFENDANT: Yes.

"THE COURT: Did you point the gun at them?

"THE DEFENDANT: Yes.

"THE COURT: How much money did you take approximately?

[12] "THE DEFENDANT: About a hundred and fifty dollars.

"THE COURT: Tell me what took place in Brooklyn on January 20, 1975, concerning yourself and a man by the name of Bobby Lawrence?

"THE DEFENDANT: Robbed a store.

"THE COURT: Did you have a weapon?

"THE DEFENDANT: Yes.

"THE COURT: What kind of a weapon did you have?

"THE DEFENDANT: The co-defendant had the weapon.

"THE COURT: Your co-defendant had a weapon, did you know he had a weapon?

"THE DEFENDANT: Yes.

"THE COURT: You went into the store with the co-defendant, why did you go in there; what was the reason for you going in there?



"THE DEFENDANT: To rob the store.

"THE COURT: Did you in fact rob the store?

"THE DEFENDANT: Yes.

"THE COURT: How much money did you take in that robbery, approximately?

[13] "THE DEFENDANT: I don't know. I did not count it.

"THE COURT: Was it more than fifty dollars?

THE DEFENDANT: I don't know.

"THE COURT: Where did you get the money from, from the man's person or a drawer or what?

"THE DEFENDANT: Person and drawer."

Now, there are many other parts of this plea that I could read into the record, the allocution was rather long, and rather complete, even if I say so myself.

Now, are you telling me, Mr. Ramsey, that you lied to the Court?

THE DEFENDANT: Yes, I am telling you this.

You want to let me talk now?

THE COURT: I would like you to answer the questions.

THE DEFENDANT: I'm going to tell you everything.

Now, you finished?

The only reason I took that plea on that day is because you harassed my lawyer in front of [14] the Jury, you understand?

You intimidated him.

THE COURT: I want you to answer my questions. You keep talking.

THE DEFENDANT: What are you telling me?

You are a gangster. You keep quiet.

THE COURT: Get a gag.

THE DEFENDANT: That is why I took my plea.

THE COURT: When I tell you I will listen to you, I will listen to you, but not until then.

You will not run my courtroom.

THE DEFENDANT: I'm not trying to run your courtroom. I am facing twelve years to twenty-five, not you. I give less than a fuck about a courtroom.

THE COURT: You don't dare use profanity in a courtroom.

THE DEFENDANT: I don't care anything, but do you understand, so stop raising your voice about me.

You asked me.

[15] THE COURT: You stop raising your voice.

THE DEFENDANT: I am telling you I am not guilty. The only reason I took my plea is because I was coerced.

You also told my attorney if I have a trial, you will give me twelve to twenty-five years, and he told me that.

THE COURT: Stop raising your voice.

THE DEFENDANT: You also started making remarks about a mess of people in the beauty parlor and you already had me tried and convicted.

You said that is my line of work.

When my lawyer said to you that he was ready, we came to the courtroom and you asked my attorney, and he said yes, and you said you are going to trial, and my attorney said yes, and you said I guess your client is innocent.

You are motherfucking right I am innocent.

THE COURT: Don't you dare use profanity in the courtroom.

THE DEFENDANT: Then take the handcuffs off.

[16] If you are a man, take them off.

THE COURT: I sentence you to thirty days in Criminal Contempt of this Court.

THE DEFENDANT: I want my plea back, that is all.

THE COURT: I want a gag for this man, because I am going to put something on the record and I don't want him interrupting me.

Get the gag.

THE DEFENDANT: I want my plea back.

I want my plea back.

THE COURT: Do you want to answer the question I put to you?

THE DEFENDANT: Yes.

THE COURT: Did you lie to me?

THE DEFENDANT: Yes, I did.

THE COURT: Are you lying now?

THE DEFENDANT: No, I am telling the truth.

THE COURT: How am I to tell the difference since you are admittedly a liar?

THE DEFENDANT: I am innocent and the only reason I took the plea is because you are prejudice.

[17] I know I cannot get a fair trial from you, and I definitely don't trust you. It is impossible to get a fair trial in front of you.

THE COURT: The application for the withdrawal of the plea is in all respects denied.

The Court will not belabor the record by retorting to the vile accusations and the language that was used by the defendant.

It is without foundation. It is without reason, and it is in fact not only incorrect, but a falsehood.

THE DEFENDANT: You ain't sentencing me, man. You ain't brushing me off like Al Capone or some other man. This motherfucker is prejudiced and roughing me off and you don't trust me because you are a sap. You understand this, motherfucker?

You won't let me take my plea back. This motherfucker is not a Judge, he is a dictator. He should have been with Mussolini and Hitler.

THE COURT: Sit him down.

THE CAPTAIN: You want the restraint belt on him?

[18] THE COURT: Only if it proves necessary.

So far he hasn't been violent to the extent that he has used physical force.

Mr. Bavanzino, I apologize for what is a distasteful experience for you and for me also.

I have previously adjudicated the defendant to be in contemptuous conduct of the court, Criminal Contempt of this Court, and I have sentenced him to thirty days summarily. I do this on the basis of his conduct in this court.

The fact that he interrupted the Court repeatedly, the tone of his voice and the profanity that he used, despite the fact that I warned him and told him not to use profanity, I will not have this conduct by any defendant under any circumstances in my court.

I have reviewed the file. I have reviewed the application of counsel.

Is there anything further you want to say, Mr. Bavanzino, concerning this sentence and concerning the application?

MR. BAVANZINO: Just, Your Honor, that the [19] first time we had a discussion on this matter at the bench between the District Attorney and your Honor and myself, I believe that was on August the 2nd, and 3rd, Judge.

THE COURT: This is prior to the Wade Hearing and prior to the selection of the Jury?

MR. BAVANZINO: Yes, Your Honor.

THE COURT: And, I believe I know what you are about to tell me, and please correct me if I am wrong.

You are going to tell me that the District Attorney would tell me you are going to give a plea to Robbery Two to cover both indictments, and you asked the Court well whether I would under those circumstances give three and a half to seven years, and I said if the District Attorney would go along on the Robbery Two, I would probably do the same, subject, of course, of me looking at the probation report.

Is that correct, Mr. Bavanzino?

MR. BAVANZINO: That is basically what I wanted to say.

[20] THE COURT: And, you consulted with your client and he said no, he does not want to take the plea of three and a half to seven, and he did not want to take the plea.

MR. BAVANZINO: At that time he indicated further that he was innocent at that time. Then the next day or the day after the Wade Hearing—after the completion of the Wade—

THE COURT: I believe we had two ladies testify in that case, is that correct?

MR. BAVANZINO: Yes, Your Honor.

THE COURT: I remember it.

THE DEFENDANT: One lady that testified.

MR. BAVANZINO: One lady that testified, and the second one I don't think took the stand, Judge.

THE COURT: Maybe it was interrupted. I never did make findings of facts and conclusions of law in that case, because there was a plea.



MR. BAVANZINO: It was a Miss Walker, your Honor, and it was the only one that took the stand, and after that witness, there was some talk about a plea of guilty, and at that time, [21] the plea of guilty was talked about as I came up to the bench, and we discussed it, and your Honor said that you would give six to twelve with the District Attorney's approval.

I came back and said to my client six to twelve, and he said no, and it went back and forth, and finally we arrived at a decision.

THE COURT: The District Attorney offered Robbery One only at that point, is that correct?

MR. BAVANZINO: My memory is that he did at that time, Judge. We arrived at a six to twelve year sentence, prior to that time the admonition or the statement was made to me that if this guy goes to trial and he is convicted, he is going to get twelve and a half to twenty-five.

Your Honor told me to take that back to my client which at the time I did, Judge. I gave him that warning.

THE COURT: Subject of course of me reading the probation report. It is a practice in my court when there is an armed robbery, to give [22] a maximum sentence, unless there are mitigating circumstances.

MR. BAVANZINO: Well, I think your Honor in light of everything, that that was the basis of why the defendant took the plea.

THE COURT: Are you telling me that you knew when he pleaded guilty, that he was not actually guilty?

MR. BAVANZINO: I did not know that, your Honor, we can never know anything about a client. We have to go by what the client tells us.

THE COURT: That is exactly the point I am trying to make with you.

When he pleaded guilty, you believed him to be guilty?

MR. BAVANZINO: I assumed as your Honor did that he was guilty. I assumed that.

THE COURT: You were ready for trial?

MR. BAVANZINO: I was ready. We had selected a Jury and two alternates. Your Honor knows that.

You were the trial Judge on the case.

[23] However, he called me down, and he called my office from the Brooklyn House of Detention some three or four days after this incident, and he asked me to come down to the Brooklyn House of Detention and when I got time, I did go down to the Brooklyn House of Detention, and he said I want to withdraw my plea.

I said why don't you think it over, and I will come back in a week or so. I went back again sometime before Labor Day, and he was still persistent and wanted to withdraw his plea and asked me to put the motion papers in which I did, and that is the present status of the case at this time, your Honor.

THE COURT: Okay.

Is there anything further you want to say, Mr. Bavanzino?

MR. BAVANZINO: No, Your Honor.

THE COURT: The application to withdraw the plea is in all respects denied.

Arraign the defendant for sentence.

Take the gag off him.

[24] The record will note that when the defendant saw fit to make a comment, he removed the gag himself and made the comment.

THE DEFENDANT: You can go ahead and sentence me, you racious motherfucker.

THE CLERK: What is your name?

THE DEFENDANT: You kiss my motherfucking ass. You are a prejudice motherfucker. You had me pick a Jury before we had a Wade Hearing.

You got it right. I copped out. I am not scared no more. You are a motherfucker sap, and why don't you take the handcuffs off.

You are a sissy fucker.

THE COURT: You want handcuffs off?

Captain, leave the cuffs on for his own protection.

The record will show that the defendant is sitting on the table with his back to the Court.

THE DEFENDANT: The courtroom is not mine. He is going—

THE COURT: Put the gag back on him because I cannot relate into the record my sentence [25] while he is yelling and screaming.

THE DEFENDANT: I am not going to talk no more. I am going to keep the back towards you.

THE COURT: Just as long as you keep your mouth shut and you don't interrupt the Court, that is all right.

It is the sentence of this Court that the defendant, after looking at his record and—

THE DEFENDANT: Did you read the probation report, Mr. Held, I told the People at the Probation Department I was not guilty, and I told them why.

Did you read the probation report?

THE COURT: I thought you told me you were not going to interrupt me.

If you don't keep quiet, I am going to put the gag back on you.

THE DEFENDANT: You are a motherfucker.

THE COURT: Put the gag back on him again.

Handcuff his hands to the chair so he does not remove the gag from his mouth.

The record will show that he is now gagged [26] and bound to the chair and thus he will not interrupt the Court.

Once again, Mr. Bavanzino, I apologize for the necessity of this. It is quite distasteful for everyone, especially the Court and you.

Your client is very distasteful.

I have read over the probation report. The defendant is twenty-four years old, and he has been known to the Children's Court for juvenile delinquency in 1965. His mother complained to the Juvenile Court. The defendant had been away from home on two occasions for drinking alcoholic beverages and associated with undesirable, and then later in 1965, he was convicted of juvenile delinquency, Assault with a knife. He stabbed a fourteen year old, sending a boy to the hospital. He was put on probation. Then he was sent to Warwick.

Then he was paroled, and sent back to Lodi (phonetic). Then he was paroled, and then he was sent to New Hampton. Then he was paroled, and ultimately in 1969, he was discharged, [27] unfortunately not favorably.

His adult record again as soon as he was discharged practically, seven months thereafter, some Judge saw fit to give him a Y.U. for Attempted Grand Larceny, automobile, and Burglary Tools in Brooklyn Criminal Court, and in 1971, he was convicted of Robbery, Grand Larceny in the Third Degree in the Supreme Court.

He robbed another person of fifty-three dollars with a knife.

He is a second felony offender.

Robbery in the Third Degree was sentenced by Judge Corso on January 26, 1972.

At the time of his arrest on this case, he was on parole and declared delinquent due to re-arrest. Indictment 431 of 1975 was consolidated into the present offense for purposes of a plea; and sentenced under indictment 431 of 1975, the defendant was charged with Robbery in the First Degree, two counts of Robbery in the Second Degree, Petit Larceny and Criminal Possession of a Weapon in the Second Degree.

[28] In that offense the defendant and the co-defendant on January 20, 1975, at gunpoint forcibly stole eighty-five dollars from the candy store owner and when both defendants were apprehended, the co-defendant, Anderson, possessed a loaded revolver and Ramsey a knife.

The defendant says that he denies his guilt in 431 of 1975, and he states that according to the probation report he met his co-defendant in the street and together they got a taxicab headed in the direction of a pool room at Washington Avenue near St. Marks.

The defendant states he does not know how his co-defendant had a revolver in his possession, and denies having the weapon himself.

The defendant said he admitted his guilt in the present offense to the Assistant District Attorney because he was beat up by the arresting officer.

The defendant advises that he accepted the plea for the purposes of his own convenience as well as he feared conviction if he were found [29] guilty at trial.

The defendant has undergone psychiatric examination in connection with the present offense and the consolidated indictment. At one point he was found unfit to proceed,



and was admitted to Mid-Hudson Psychiatric Center where he was a patient from April until June of 1975.

The psychiatrist at the Mid-Hudson Psychiatric Center diagnosed the defendant as an anti-social person, but no medication.

The defendant was found fit to proceed on July 11, 1975, and July 16, 1975, respectively.

The defendant—I am reading from the report—also the defendant advises that he withdrew his plea because he was not guilty and had only pleaded guilty on the advice of his lawyer, and was tired of being in jail.

The defendant advises he intends to take both cases to trial, but changed his mind and took a plea because he states your Honor's decision at a Wade Hearing was prejudicial. I might state parenthetically I never reached a point of making [30] a Wade decision.

Is that correct, Mr. Bavanzino?

MR. BAVANZINO: That is correct.

THE COURT: I never made findings of facts and conclusions of law and never denied the motion.

It also states the defendant feels that your Honor was prejudicing the Jury during the time of selection. I would state that at the time the appeal is taken from sentence, a copy of the voir dire should be ordered so that the Appellant Court will see whether or not that is the case.

The defendant states he was not able to change Judges. That is a fact. He was afraid of being sentenced to the maximum time and found guilty by the Jury.

The defendant states that your Honor made a promise of six to twelve years which he feels is highly excessive, especially so because his co-defendant in indictment 431 of 1975 was sentenced to two to four years.

The defendant states three and a half to [31] seven years would be acceptable to him and he is considering to withdraw his plea if your Honor follows through with the promise of six to twelve.

There is one other thing I want to read from the report, at the interview the defendant was generally cooperative and quite talkative, especially so in derogating

the Criminal Justice System of which he feels he is made victim of.

So he seems with people that he has held up at gunpoint and knifepoint and all the other things he has done, they weren't victims, he was the victim.

It is an interesting attitude. The defendant shows no remorse whatsoever. I almost wish I had not promised six to twelve, but nonetheless, I feel that six to twelve is enough time for this man to receive.

Unfortunately, it appears quite obvious that at least at this juncture unfortunately that he is not going to be reformed. He is only going to become punished.

[32] It is the sentence of this Court that the defendant be sentenced to a minimum of six years and a maximum of twelve years in the New York State Department of Correctional Services to commence after the service of thirty days heretofore imposed for Criminal Contempt of Court by the contemptuous obnoxious nauseating conduct and language that the defendant displayed in this courtroom.

Take him away.

THE CLERK: The defendant is advised he may appeal from the sentence just imposed upon him by filing a Notice of Appeal in duplicate with the Clerk of this Court within thirty days of this date, and a copy must be sent to the District Attorney of Kings County.

If he cannot afford counsel for this purpose, he may apply to the Appellate Division, Second Department, for such counsel to be assigned.

Remand the defendant.

THE DEFENDANT: You are a sap, Held, you are a faggot.

At a Criminal Term, Part 52 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Court-house, Civic Center and Montague Street, Brooklyn, New York, on the 14th day of October, 1976.

PRESENT:

HON. Gerald S. Held  
Justice.

Indictment No. 2588/75 & 431/75

THE PEOPLE OF THE STATE OF NEW YORK,

—against—

HAROLD RAMSEY, DEFENDANT

MOTION TO WITHDRAW PLEAS OF GUILTY

Submitted 9/29/76

John B. Avanzino  
For the Motion

Eugene Gold, D.A.,  
Kings County  
In opposition

Papers Numbered  
1, 2, 3

The following papers, numbered 1 to 3  
submitted on this motion:

Notice of Motion and Affidavits and Affirmations

ORDER OF HONORABLE GERALD S. HELD DENY-  
ING PETITIONER'S MOTION TO WITHDRAW  
THE PLEA, ENTERED OCTOBER 14, 1976

Upon the foregoing papers, the hearing—argument—  
held herein, and opinion of the Court herein, it is

ORDERED, that the motion to withdraw pleas of  
guilty be and the same hereby is denied

ENTER

---

J.S.C.



At a Term of the Appellate Division  
of the Supreme Court of the State  
of New York, Second Judicial De-  
partment, held in Kings County

HON. JAMES D. HOPKINS, Justice Presiding  
HON. VITO J. TITONE, )  
HON. JOSEPH A. SUOZZI, )  
HON. CHARLES MARGETT, ) *Associate Justices*

2588-75

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT

v.

HAROLD RAMSEY, APPELLANT

ORDER AFFIRMING JUDGMENT OF  
CORRECTION—February 6, 1978

In the above entitled action, the above named Harold Ramsey, defendant in this action, having appealed to this court from a judgment of the Supreme Court, Kings County, entered September 17, 1976; and the said appeal having been submitted by Steven W. Fisher, Esq., of counsel for the appellant, and submitted by Laurie Stein Hershey, Esq., of counsel for the respondent, and due deliberation having been had thereon; and upon this court's decision slip heretofore filed and made a part hereof, it is:

ORDERED that the judgment appealed from is hereby unanimously affirmed.

Enter:

IRVIN N. SELKIN  
Clerk of the Appellate Division

STATE OF NEW YORK  
COURT OF APPEALS

2588-75

BEFORE:

HON. CHARLES D. BREITEL, Chief Judge

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT  
*against*

HAROLD RAMSEY, DEFENDANT-APPELLANT

CERTIFICATE DENYING LEAVE TO APPEAL—  
March 17, 1978

I, CHARLES D. BREITEL, Chief Judge of the Court of Appeals of the State of New York, do hereby certify that, upon application timely made by the above-named appellant for a certificate pursuant to CPL 460.20 and upon the record and proceedings herein,\* there is no question of law presented which ought to be reviewed by the Court of Appeals and permission to appeal is hereby denied.

Dated at New York, New York  
March 17, 1978

/s/ Charles D. Breitel  
Chief Judge

Steven W. Fisher, Esq.  
16 Court Street  
Brooklyn, New York 11241

Hon. Eugene Gold  
District Attorney, Kings County  
Municipal Bldg.  
Brooklyn, New York 11201  
Clerk, Court of Appeals

\* Description of Order: 2-6-78 App Div 2 affmd. 9-17-76 Sup. Ct., Kings Co.

## STATEMENT

The material that follows was not before the Appellate Division when it considered the petitioner's case below. However, it was available to the Court upon its request or upon the request of counsel for either side. No such request was ever made.

With the exception of the minutes of the *Wade* hearing, all of the material was before Justice Held when sentence was pronounced. The *Wade* hearing was conducted by Justice Held one day before he accepted the petitioner's plea of guilty.

The material in its entirety is included in this Appendix at the specific request of the respondent.

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SUPREME COURT OF THE  
STATE OF NEW YORK  
COUNTY OF KINGS

Indictment No. 431/75

[Filed January 28, 1975]

THE PEOPLE OF THE STATE OF NEW YORK

*against*

XJ. ERNEST ANDERSON  
XJ. HAROLD RAMSEY, DEFENDANT

## COUNTS

ROBBERY IN THE FIRST DEGREE  
(2 counts);

ROBBERY IN THE SECOND DEGREE;  
PETIT LARCENY;

CRIMINAL POSSESSION OF A WEAPON  
IN THE SECOND DEGREE

## FIRST COUNT

THE GRAND JURY OF THE COUNTY OF KINGS, by this indictment, accuse the defendants of the crime of ROBBERY IN THE FIRST DEGREE, committed as follows:

The defendants, each aiding the other and being actually present, on or about January 20, 1975, in the County of Kings, forcibly stole certain property from BOBBY LAWRENCE to wit: a quantity of United States Currency and in the course of the commission of the crime and of immediate flight therefrom the defendants used and threatened the immediate use of a dangerous instrument.

## SECOND COUNT

THE GRAND JURY OF THE COUNTY OF KINGS, by this indictment, accuse the defendants of the crime of ROBBERY IN THE FIRST DEGREE, committed as follows:

The defendants, each aiding the other and being actually present, on or about January 20, 1975, in the County of Kings, forcibly stole certain property from BOBBY LAWRENCE to wit: a quantity of United States Currency and in the course of the commission of the crime and of immediate flight therefrom, the defendants displayed what appeared to be a pistol, revolver or other firearm.

## THIRD COUNT

THE GRAND JURY OF THE COUNTY OF KINGS, by this indictment, accuse the defendants of the crime of ROBBERY IN THE SECOND DEGREE, committed as follows:

The defendants, each aiding the other and being actually present, on or about January 20, 1975, in the County of Kings, forcibly stole certain property from BOBBY LAWRENCE to wit: a quantity of United States Currency.

## FOURTH COUNT

THE GRAND JURY OF THE COUNTY OF KINGS, by this indictment, accuse the defendants of the crime of PETIT LARCENY, committed as follows:

The defendants, each aiding the other and being actually present, on or about January 20, 1975, in the County of Kings, stole certain property from BOBBY LAWRENCE to wit: a quantity of United States Currency.

## FIFTH COUNT

THE GRAND JURY OF THE COUNTY OF KINGS, by this indictment, accuse the defendant of the crime of CRIMINAL POSSESSION OF A WEAPON IN THE SECOND DEGREE, committed as follows:

The defendant, on or about January 20, 1975, in the County of Kings, knowingly and unlawfully possessed a loaded firearm, to wit: a revolver with intent to use the same unlawfully against another.

EUGENE GOLD  
District Attorney

SUPREME COURT  
KINGS COUNTY  
CRIMINAL TERM  
PART IA

(Ind. 431/75)

THE PEOPLE OF THE STATE OF NEW YORK

*against*

HAROLD RAMSEY, DEFENDANT

MINUTES OF PLEA—September 8, 1975

Brooklyn, N.Y.

Before:

Hon. Larry M. Vetrano,  
Justice

Appearances:

N. Silverman, Esq., ADA  
For the People

E. Quinn, Jr., Esq.  
For the Defendant

[2] THE COURT: This is Mr. Ramsey.

MR. QUINN: For identification purposes, this defendant is Harold Ramsey. Your Honor, it is my understanding that there is a report from Part I that has to be confirmed on the other indictment. The representative from the DA's office—

THE COURT: Is it on this case or another case?

MR. QUINN: On the second case; that on which we are considering a consolidation. The defendant informs me he wishes to withdraw and confirm the report.

THE COURT: Let's take the plea in the meantime.

MR. SILVERMAN: Your Honor, on this case, I understand that the report was confirmed in Part I on



February 28, 1975—I beg your pardon. It is on the other case.

THE COURT: Make your offer, counsel.

MR. SILVERMAN: If your Honor pleases, at this time I would move to consolidate Indictment 2588/75 into Indictment 431/75, both said indictments against Harold Ramsey.

THE COURT: Is that on consent?

MR. QUINN: On consent, your Honor.

THE COURT: Mr. Ramsey, you were examined on [3] July 7th and July 11th by Drs. Weidenbacher and Goldman respectively. They certify that you do not as a result of mental disease or defect lack capacity to understand the proceedings against you and to assist in your defense.

On this finding, you have a right if you wish to contest it and to a hearing. That hearing would be without a jury. Or you may accept the finding of these two doctors. Will you please talk with your attorney, who stands beside you at this time, and tell me what you wish to do.

THE DEFENDANT: Confirm the finding.

THE COURT: There being no opposition, the report is confirmed. That's on Indictment 431/75. Do you have an application at this time, counsellor?

MR. QUINN: Yes, your Honor. After a conference at the Bench and after speaking to the defendant, he wishes to enter a plea to robbery two, a C felony, based on the conference.

MR. SILVERMAN: I recommend the acceptance of the plea, your Honor.

BY THE COURT:

Q Mr. Ramsey, you have heard your attorney, who stands beside you, indicate to this Court that you wish [4] to withdraw your plea of not guilty to consolidated Indictment 431/75 and in place thereof you wish to interpose a plea of guilty to robbery in the second degree, a C felony. Is that what you want to do?

A Yes, sir.

Q You understand that in pleading guilty, you give up a right that you have at this time to a trial, either with a jury or without a jury.

A Yes, sir.

Q When you plead guilty, in effect you say, "I committed this crime and I do not wish any trial at all." Is that what you want to do?

A Yes, sir.

Q Are you doing it voluntarily?

A Yes.

Q Anybody force you to plead guilty?

A No.

Q What you are pleading guilty to is the third count of the indictment, which is that on or about January 20, 1975, being aided by your co-defendant, Ernest Anderson, who was actually present, you forcibly stole from Bobby Lawrence some money. Is that what you did?

A Yes.

Q This took place at about 9:45 p.m. on January [5] 20, 1975, in a candy store at 849 St. John's Place, in Brooklyn.

A Yes, sir.

THE COURT: I have discussed this case with your lawyer; and subject to reading a probation report, Mr. Ramsey, I have indicated that I am going to consider imposing a minimum sentence of three and a half and a maximum sentence of seven years.

If after reading the probation report I find that I am not inclined to go along with the commitment that I have just made to you, I shall advise you of that fact. You may then consult with your lawyer and withdraw your plea and go to trial, if that's what you want to do. Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: Mr. Ramsey, is it true that the only promises made to you with regard to this case are those promises that have been put on the record by me today?

THE DEFENDANT: Yes, sir.

THE COURT: The Court will accept the plea. The defendant is continued in remand under the same bail conditions for sentence on November 6, 1975.

[6] THE CLERK: What is your name?

THE DEFENDANT: Harold Ramsey.

THE CLERK: Is Mr. Quinn, who stands beside you, your attorney?

THE DEFENDANT: Yes.

THE CLERK: Harold Ramsey, before accepting your plea of guilty, you are advised that if you have previously been convicted of a felony, as defined in Section 70.06 of the Penal Law, that fact may be established after your plea of guilty in this action now before the Court and you will be subject to different or additional punishment.

Harold Ramsey, in the presence of your attorney and pursuant to the stipulations made to you by the Court with regard to sentence, do you now wish to withdraw your plea of not guilty heretofore entered to the consolidated Indictment 431/75 and do you now plead guilty to the crime of robbery in the second degree, a Class C felony, in full satisfaction of that consolidated indictment? Is that what you wish to do?

THE DEFENDANT: Yes, sir.

THE CLERK: Sentence date is November 6, 1975. The defendant is continued in remand under the same bail conditions pending sentence.

---

PETITIONER'S OFFICIAL ARREST AND DISPOSITION RECORD

DATE 01-30-75  
TIME 1500  
FAX NO K2858  
RUN NO 9771

STATE OF NEW YORK  
DIVISION OF CRIMINAL JUSTICE SERVICES  
ALBANY, NEW YORK 12203

CONFIDENTIAL - TO: ... NYCPD HDQ

NAME RAMSEY, HAROLD

I NYSID 3010973N I

INCORRECT OR INVALID NYSID NO. ON INPUT DOCUMENT

NAMES USED BY SUBJECT

RAMSEY, HAROLD

TRANS NO 26351K  
PAGE 1  
B# 8774643  
DOB 04-03-52  
RAC NEGRO  
SEX MALE  
HGT 5-08  
SOC 097-44-8165  
FBI 223423H

3010973

< < < < < CRIMINAL HISTORY > > > > >					
ARREST DATE INFORMATION		ARREST CHARGES	DISPOSITION AND CORRECTIONS DATA		
ARREST DATE/PLACE			<DISPOSITION>		
OCT 22, 1969		140.35 PL CLASS A MISD	INITIAL REPORT OF INDY/OKT NO		
KINGS COUNTY		POSSESSION OF BURGLAR TOOLS	CRIM CRT KINGS		
CRIME DATE/PLACE			OKT/IND# 0013763		
OCT 22, 1969		155.35 PL CLASS D FEL -ATT			
KINGS COUNTY		GR LAR AUTO: VALUE OVER \$1500			
ARREST AGENCY/ID NO					
NYCPD PCT 071					
8774643					
ARREST DATE/PLACE					
FEB 4, 1970		160.05 PL CLASS D FEL			
KINGS COUNTY		ROBBERY-3RD	1		
CRIME DATE/PLACE			1		
UNKNOWN			1		
UNKNOWN			1		
ARREST AGENCY/ID NO			1		
NYCPD PCT 071			1		
8774643			1		
ARREST DATE/PLACE			<DISPOSITION>		
FEB 11, 1971		160.15 PL CLASS B FEL	160.15 PL CLASS B FEL		
KINGS COUNTY		ROB:FORCIBLE THEFT W/USE-INSTRM/ROBBERY-1ST			





PETITIONER'S OFFICIAL ARREST AND DISPOSITION RECORD (CONT'D)

[3]

ISUP CRT KINGS CO COMB CH  
101-03-72 DKT/IND# 311577  
ISENT:REFORMATORY TERM  
INST NOT SPECIFIED  
  
< CORRECTION DATA >  
4 YEARS  
ELMIRA RECPIN CEN  
102-17-72 INMATE ID 41907  
INW COURT COMM, NOT ON PAROLE  
107-02-74 INST. RELEASE  
IGREAT MEADOW COR FC IDGM2963  
CONDITIONAL RELEASE

ARREST DATE/PLACE  
JAN 20.1975  
KINGS COUNTY  
  
160.15 PL CLASS B FEL  
ROB:FORCIBLE THEFT W/DEDLY WEAP  
NCIC 1299

CRIME DATE/PLACE  
JAN 20.1975  
KINGS COUNTY  
  
265.01 PL CLASS A MISD  
CPIM POSS WEAP - 4TH DEG  
NCIC 5212

ARREST AGENCY/ID NO  
NYCPD PCI 077  
07703323  
  
205.30 PL CLASS A MISD  
RESISTING ARREST  
NCIC 4801

COURT CONTROL NO  
17B2444L  
  
165.40 PL CLASS A MISD  
POSSESSION STOLEN PROPERTY-3RD  
NCIC 2804

FAX NO  
K01991

ARREST DATE/PLACE  
JAN 30.1975  
KINGS COUNTY  
  
160.15 PL CLASS B FEL  
ROB:FORCIBLE THEFT W/DEDLY WEAP  
NCIC 1291

CRIME DATE/PLACE  
DEC 30.1974  
KINGS COUNTY  
  
160.15 PL CLASS B FEL  
ROB:FORCIBLE THEFT W/DEDLY WEAP  
NCIC 1201

ARREST AG-NCY/ID NO  
NYCPD PCI 054  
  
265.01 PL CLASS A MISD

PETITIONER'S OFFICIAL ARREST AND DISPOSITION RECORD (CONT'D)

[4]

09404812 | CRIM POSS WEAP W/OUT TO USE  
 COURT CONTROL NO | NCIC 52991  
 1632229M |  
 FAX NO |  
 K2856 |

ACTIVITY	DATE	COMMENTS
NST ADM	1 JAN 17, 1969	DACC EDGE C048 SENTENCE LENGTH NOT REPORTED CIVIL NARCOTICS CERTIFICATION INMATE ID 5002700
NST ADM	1 JAN 17, 1969	DACC SHERIDAN SENTENCE LENGTH NOT REPORTED CIVIL NARCOTICS CERTIFICATION INMATE ID 5002700
SOC SFC NO	1 097-44-6185	FREQ 01
<del>DATE</del> BIRTH DT/PL	APR 3, 1952	FREQ 08 BKLYN NEW YORK FREQ 06 APR 3, 1947 FREQ 01 BROOKLYN NEW YORK FREQ 02 NYC NEW YORK FREQ 01
NAMES AND ADDRESSES	1 JAN 17, 1969	RAMSEY, HAROLD 435 GRAND AVE BKLYN NEW YORK 1 JAN 17, 1969 1040 CARROLL ST BKLYN NEW YORK OCT 22, 1969 RAMSEY, HAROLD FEB 4, 1970 RAMSEY, HAROLD FEB 11, 1971 1040 CARROLL ST BKLYN NEW YORK APR 17, 1971 RAMSEY, HAROLD FEB 17, 1972 1040 CARROLL ST BROOKLYN NEW YORK JULY 2, 1974 RAMSEY, HAROLD JAN 20, 1975 RAMSEY, HAROLD JAN 30, 1975 RAMSEY, HAROLD 1040 CARROLL ST BKLYN NEW YORK

THE ABOVE RESPONSE TO YOUR INQUIRY IS BASED ON A FINGERPRINT IDENTIFICATION  
 AND CONTAINS ALL INFORMATION IN OUR FILES TO WHICH YOU ARE ENTITLED



SUPREME COURT OF THE  
STATE OF NEW YORK  
COUNTY OF KINGS  
CRIMINAL TERM  
PART 52

Ind. No. 2588/75

THE PEOPLE OF THE STATE OF NEW YORK

—against—

HAROLD RAMSEY, DEFENDANT

MINUTES OF WADE HEARING—August 3, 1976

Supreme Court House  
Brooklyn, N.Y.

Before:

HON. GERALD S. HELD

Appearances:

FOR THE PEOPLE

EUGENE GOLD, ESQ.

By: JOHN W. HESTER, ESQ.  
Assistant District Attorney

FOR THE DEFENDANT

JOHN AVANZINO, ESQ.

25 Plaza Street  
Brooklyn, N.Y.

[2] REBECCA WALKER, residing at 552 East 56th Street, Brooklyn, New York, 11203, having been called as a witness and duly sworn by the Clerk of the Court, was examined and testified as follows:

## DIRECT EXAMINATION OF MISS WALKER

BY MR. HESTER:

Q Miss Walker, I draw your attention to the date of December 30, 1974. Where were you at approximately 8:00 P.M. or 8:30 on that date?

A I was in the beauty parlor at 776 Franklin Avenue.

Q In what county is that located?

A Kings.

Q What were you doing in the beauty parlor at that time?

A I was assisting my sister Monica Faide.

THE COURT: You were working there?

THE WITNESS: Yes, at that particular day.

Q Besides yourself, how many other individuals were present in the beauty parlor at that time?

A It was about seven there, about.

Q Were those both customers and employees?

A Yes.

Q Was Coreen Mundy (phonetic spelling) one of [3] the individuals who was present there?

A Yes. Coreen Mundy was a customer.

Q At approximately 8:20 P.M. did something occur?

A Yes.

Q Would you describe what happened?

A Yes. On that day, while, all I can say, it happened so fast. This man, I found out his name afterwards—

Q What did you find out his name to be?

A Harold Ramsey.

Q What, if anything, did Harold Ramsey do at that time and place?

A He came up and he pulled out a gun.

Q Where did he come from? From where did he come?

A Through the door, the main entrance. Only one entrance.

Q What did he do after entering the store?

A He had this gun. And he said, "No one move." He used some obscene language.

Q Please tell us what he said. We understand that these words are his words and not your own.

A He said, "You see this big mother fucker. Nobody move. I'll blow your brains off. Give me your money. [4] Which he went to every customer and took the money out.

Q From where did he take the money?

A From the pocketbooks. And also, he also came to me and said, "Give me the money." I pulled the drawer out.

Q What drawer is this?

A It's a cash, a little cash drawer. And I pulled the drawer out and I gave him the drawer like it was.

Q What did he do?

A He proceeded—he held the gun in one hand and he used the left hand to take the money out. He took all the money and he put it into his pocket. And he proceeded backways. Took steps backward and he still held the gun and he said, "Nobody move." Again he used the obscene language. And he kept on backway until eventually he went through the door.

Q Do you see Harold Ramsey in court today?

A Yes. That's him right there.

MR. HESTER: Indicating the defendant.

THE COURT: Let me ask you this question. I know that you see Harold Ramsey in court. But the man who you say held up the beauty parlor, held you up, do you see him in court?

THE WITNESS: Yes, sir. I have seen him in [5] the court. Apart from that, about six weeks prior to—

MR. AVANZINO: Objection, your Honor.

THE COURT: Objection is overruled. Just one second. First answer my question and then you will answer any question that the District Attorney wants to put to you.

THE WITNESS: Yes, I see him right there.

THE COURT: The man who held up the beauty parlor on December 30, 1974 at about 8:30 in the evening, do you see him in the courtroom?

THE WITNESS: Yes, sir.

THE COURT: Would you point to that person?

THE WITNESS: He was wearing a black and rust colored shirt.

THE COURT: Indicating the defendant.

THE WITNESS: With the glasses.

THE COURT: Was he wearing glasses at the time of the hold-up?

THE WITNESS: No, he wasn't.

THE COURT: Next question.

MR. HESTER: Thank you, your Honor.

Q Mrs. Walker, would you describe the lighting conditions inside your store at that time?

[6] A Excuse me?

Q Would you describe the lighting conditions inside the store at that time?

A It was much brighter than this.

THE COURT: Brighter than in this courtroom?

THE WITNESS: Yes. And the store was all lighted up with the lights everywhere.

Q How large a store is it?

A It's very long.

Q When you say, "Very long"—

THE COURT: Let's say from that back wall to what point?

THE WITNESS: Longer than in here.

THE COURT: Longer than the length of this courtroom?

THE WITNESS: Yes.

THE COURT: And the length of this courtroom, Mr. Freedman, is how long?

THE CLERK OF THE COURT: Thirty-six feet to the farthest point to that doorway. Thirty-nine feet, nine inches. The witness box to the rear wall, thirty feet.

THE COURT: Something longer than thirty feet.

THE WITNESS: Yes.

[7] THE COURT: How wide is the store, would you say?

THE WITNESS: It's not very wide. It's from here to the wall or might be a little wider.

THE COURT: Mr. Freedman, do you have the measurement from the witness box to the wall, to the right of the witness as she sits in the witness box?

THE CLERK OF THE COURT: Yes, we have that. It is ten feet six inches.

THE COURT: You say just a little bit wider than that?

THE WITNESS: Yes.

Q When you first observed the defendant enter the store, how far were you from the front entrance that he used?

A Excuse me?

Q How far were you from the front entrance at the time that he walked into the store?

A It's a good distance. I was like three-quarters of it. I was more in the back. He was coming.

THE COURT: Did there come a time when the man who held up the store came close to you?

THE WITNESS: Yes. He was right up to me.

[8] THE COURT: How long a time was he right up to you? Was it a second, a minute or longer or less?

THE WITNESS: I would say, about, two seconds. Two to three seconds, thereabouts, to me personally.

THE COURT: Was there a time when he was close to you but not right up to you?

THE WITNESS: Yes.

THE COURT: How long a time was that?

THE WITNESS: I really don't remember. I really don't remember exactly.

THE COURT: Ask questions.

Q How long was he in the store that evening totally?

A I will say, about, five to ten minutes, roughly.

Q During that time, five to ten minute periods, where were you looking?

A I was looking directly at him.

Q Had you ever seen that man before December 30, 1974?

A Yes. I will say, about, six weeks prior to the incident, I saw him in the neighborhood.

MR. AVANZINO: Objection, your Honor.

[9] THE COURT: Objection is overruled.

A (Continuing) I will say, Lincoln Place and Franklin Avenue.

THE COURT: How far away is that from your store?



THE WITNESS: It's not far. Just about, less than fifty yards.

THE COURT: That's one hundred and fifty feet. A yard is three feet. Do you understand that?

THE WITNESS: Yes. But, it's less than that. I have seen him—

THE COURT: What did you see him doing that drew your attention to him?

THE WITNESS: I seen him with a guy that I knew. His name is—well, I know him by Robert. And I didn't really know his name until I think it's the next day.

THE COURT: You didn't really know, whose name are you speaking of? You said, "His name."

THE WITNESS: Harold Ramsey's name.

THE COURT: How did you learn Harold Ramsey's name?

THE WITNESS: By a guy named Roberts.

[10] THE COURT: The next day after the hold-up?

THE WITNESS: Yes, the next day.

THE COURT: How did you learn that? You went over to him and asked him?

THE WITNESS: Yes, I asked Robert. I described him. And Robert said, "Yes," he knows him very well.

THE COURT: What description did you give to Robert in order to obtain the name of this man, the defendant?

THE WITNESS: He was dark skinned.

THE COURT: Yes.

THE WITNESS: And I had seen him.

THE COURT: That's not the only description that you gave, did you? You didn't say, you know that dark skinned fellow? There are an awful lot of dark skinned fellows.

THE WITNESS: I told had seen him.

THE COURT: What description did you give to this gentleman Robert?

THE WITNESS: He was about five seven.

THE COURT: And dark skinned?

THE WITNESS: Dark skinned.

THE COURT: Anything else?

[11] THE WITNESS: I don't really recall. And Robert said to me, "Yes," he knows him, because he was in trouble before. As a matter of fact—

MR. AVANZINO: Objection.

THE COURT: Objection sustained.

THE WITNESS: As a matter of fact—

MR. AVANZINO: Objection.

THE COURT: You can't answer that question. It has nothing to do with this hearing. Next question.

Q When you spoke to Robert the day after this incident, did you tell Robert that you had seen him, Robert was the man who held you up earlier?

A Yes, I did.

Q On that occasion when you saw the man with Robert, was that the only other time that you had seen the man prior to December 30, 1974?

A No, I had seen him before.

Q On how many other occasions?

THE COURT: The man who held you up, beside you having seen him at the beauty parlor when he held you up and the time that you say that you saw him with this fellow Robert, you saw him other times also?

[12] THE WITNESS: No. I just saw him,—

THE COURT: That's the question that the District Attorney asked you.

THE WITNESS: No, I just saw him.

THE COURT: Who is, "Him,"?

THE WITNESS: Harold Ramsey with Robert. Because Robert managed the 801 Club.

THE COURT: Listen to my question. The District Attorney has already ascertained from you that you saw this man at the hold-up. He is the fellow that held you up. That's what you say, is that right?

THE WITNESS: Yes.

THE COURT: And the District Attorney has asked you the question and you have answered that you saw Harold Ramsey, the fellow who held you up, approximately six weeks earlier with this fellow Robert, is that right?

THE WITNESS: Yes.

THE COURT: Was there any other time, in your lifetime, that you saw Harold Ramsey before the hold-up, besides that six week period before? Do you understand my question?

THE WITNESS: Oh, yes, yes.

[13] THE COURT: Was there—

THE WITNESS: Yes. I have seen him recent before the six weeks.

THE COURT: Between the six weeks earlier, but before the hold-up, you had seen Ramsey?

THE WITNESS: Yes.

THE COURT: Where and when, under what circumstances, under what conditions have you seen Ramsey?

THE WITNESS: In the same area, because I am in that area. In the same area.

THE COURT: How many times would you say that you saw Ramsey in the same neighborhood prior to the hold-up?

THE WITNESS: I will say, about two times.

THE COURT: Next question.

MR. HESTER: I have no further questions at this time.

THE COURT: Cross examination. Off the record.

(Whereupon, there was an off the record discussion.)

#### CROSS EXAMINATION OF MRS. WALKER

BY MR. AVANZINO:

[14] Q Is it Miss or Mrs. Walker?

A Mrs. Walker.

Q You stated that on December the 30th you were working in a beauty parlor, is that correct?

A I was helping my sister at the beauty parlor.

Q Were you employed there?

A No.

Q Were you working there?

A Yes, I worked on and off there.

Q Were you working that day?

A Yes, I was working that day.

Q At about 8:00 or 8:30 on the 30th of December, how many people were in the beauty parlor?

A Approximately, seven.

Q Can you, at this time, state who those people were?

A Excuse me?

Q Can you, at this time, state who those people were?

A Yes.

Q Who were they?

A A few of the names I can remember. Coreen Mundy, Ruth Battle, Jean Cummings. The others I don't really remember.

THE COURT: Was your sister there?

[15] THE WITNESS: At that particular time she was not. She's not even there now. She's ill.

Q Did Coreen Mundy work in the store?

A No, she doesn't.

Q She was a customer.

A Yes.

Q How long had Coreen Mundy been in the store before the defendant supposedly walked in?

A Excuse me, I don't get that.

THE COURT: Before the hold-up, how long had Coreen Mundy been in the store? That's what counsel wants to know.

THE WITNESS: I don't know exactly. I'm sorry, I can't remember.

THE COURT: Was it more than a couple of minutes before?

THE WITNESS: Yes. She was under the dryer.

THE COURT: So, she must have had something done to her hair in order to be under the dryer?

THE WITNESS: Yes.

THE COURT: Usually dryers are used when the hair is made wet?

THE WITNESS: Yes.

Q Was she under the dryer at the time that the [16] defendant supposedly walked into the store?

A Yes, she was under the dryer.

Q How far does that dryer extend over the person's head?



THE COURT: You want to know how far the dryer extended over Coreen Mundy's head?

MR. AVANZINO: Yes, Judge.

A I don't remember how far it extended. As a matter of fact, I wasn't even paying attention to Coreen Mundy. All I know, this man, I found out his name afterwards, Harold Ramsey, came towards the shop. I didn't even see when he came in. He just bust right in.

MR. AVANZINO: Judge, it's not responsive. I object.

THE COURT: Your objection is sustained. Please answer the question.

THE WITNESS: Yes.

Q Now, outside of Coreen Mundy, who else was in the store?

MR. HESTER: Objection.

THE COURT: Objection is sustained.

MR. AVANZINO: I would like to know the names of the other two people.

THE COURT: You want me to have the Court [17] Reporter read it back?

MR. AVANZINO: If your Honor prefers to do it.

THE COURT: I will do it that way this time but I will ask you to pay attention the next time. Read it back.

(Whereupon, the Reporter then read back the requested answer.)

Q Mrs. Walker, who is Ruth Battle, do you know?

A Ruth Battle?

Q Yes.

A Yes, I know her.

Q Was she a customer or did she work in the store?

A She doesn't work in the store. She is a customer.

Q How about Jean Cummings?

A Jean Cummings worked in the store.

Q Worked in the store. Were there any other names that you can remember at this time?

A No, there is no other names. As a matter of fact, there are only two more customers that were there and they happened to be Haitians. They are from Haiti. They are no longer living in Brooklyn.

Q In other words, your present testimony is that [18] altogether aside from you and the three people that you named, there were two others, a total of six in the store, is that correct?

A Roughly. I don't know exactly the numbers that were there. I really don't.

Q Who was in charge of the store that day?

A I worked that day.

Q You were in charge of the store?

A Yes.

Q Did you keep the appointment book?

A I really can't remember.

Q Did you have an appointment book?

A Do I have an appointment book?

Q Did you have one at that time?

THE COURT: He means with regard to customer's appointments in the store.

Q Let me rephrase it another way. Do the customers just walk in from the street or do you have hours by appointment?

A I take hours by appointment.

Q Do you have an appointment book for that day?

A Presently now?

Q No, no.

[19] A Did I then have an appointment book?

Q On that day?

A Yes, I had one. But I don't remember if I used it that particular day.

Q Now, how long before the alleged hold-up, how long a period of time had you seen the defendant Harold Ramsey, how long before? How long before the hold-up in time had you seen Harold Ramsey for the first time?

A I don't understand what you mean. I don't get the question.

Q Before the night of the hold-up.

A Yes.

THE COURT: You want to know when was the last time that she had seen Ramsey before the hold-up or the first time she saw Ramsey before the hold-up?

MR. AVANZINO: The first time she had seen Harold Ramsey before the hold-up.



THE COURT: When was the first time in your lifetime that you saw Harold Ramsey?

THE WITNESS: In between the six weeks period I seen him about two times.

THE COURT: You are not listening to the [20] question. The question is, when is the first time in your lifetime that you saw Harold Ramsey? When was the first time that you ever saw Harold Ramsey? That's what he wants to know.

THE WITNESS: Between the six weeks period with Robert. The two times that I seen him with Robert.

THE COURT: You are not listening to the question. We are not talking about the two times that you saw him after you saw him with Robert. When you saw him with this follow Robert was that the first time that you ever saw him?

THE WITNESS: Yes.

THE COURT: Why don't you answer the question then, madam?

THE WITNESS: I didn't understand the question.

THE COURT: Now, you do, don't you?

THE WITNESS: Yes.

THE COURT: When was the first time that you ever saw Harold Ramsey?

THE WITNESS: With Robert.

THE COURT: Okay, how many days or weeks or months was that before the hold-up, approximately?

[21] THE WITNESS: Six weeks period.

THE COURT: Next question.

Q Where did you first see Harold Ramsey?

A On the corner of 801, that's a club that Robert managed between Lincoln and St. Johns.

Q How far is that in relation to your store?

A It's not far. Just across the street from the store.

Q You say you noticed this Harold Ramsey with Robert?

A Yes, I saw him standing there.

Q How long have you known Robert?

A A while.

Q Can you give us an estimate of time?

A I have known him about—I knowed him between the summer of '74.

Q You say that Robert was the manager of the 801 Club?

A Yes.

Q Had you ever seen Robert standing outside with anybody else?

A Well, yes, a few times.

Q Who were those other people?

A I don't know.

[22] MR. HESTER: Objection.

THE COURT: Objection overruled. She's already answered it.

Q You don't know.

THE COURT: That's what she answer.

Q Is there any special reason why you remember the defendant six weeks before the alleged hold-up and not these other people?

A Well, naturally when he came into the beauty parlor that particular day—I am very good on faces. I recognized the face.

Q Did you speak to Robert between the time that you first saw the defendant Harold Ramsey and the night of the alleged hold-up?

A I know Robert pretty well.

Q Did you speak to him?

A Yes, I did.

Q Did you speak to him concerning the defendant?

A I described the person to Robert.

Q When did you describe the person to Robert?

A About a day after.

Q A day after what?

A The incident.

Q The alleged hold-up?

[23] A Yes.

Q Now, when you first saw the defendant Harold Ramsey, which you claim was from six weeks, approximately six weeks prior to the hold-up, you said that you saw him with Robert, correct? Now, I ask you again, did you speak to Robert at or about that time concerning the person that he was talking to or standing with?

A I spoke with Robert the day after.

MR. AVANZINO: Your Honor, she's not being responsive, Judge.

THE COURT: Repeat the question.

MR. AVANZINO: Reread the question.

THE COURT: No, you repeat it. Rephrase it.

MR. AVANZINO: Very well.

Q You said that you first saw Harold Ramsey, about, approximately, six weeks before the hold-up and you claimed that you saw him in front of the 801 Club in the company of a person named Robert, whom you know, is that correct?

A Yes.

Q When did you first speak to Robert about Harold Ramsey?

A After the incident at the hold-up.

Q Now, the testimony is that you saw the defendant [24] twice in a six week period before the hold-up, is that correct?

A Yes.

Q You saw him both times with Robert?

A I have seen him with Robert?

Q In front of the 801 Club?

A Yes.

Q You never asked Robert who this defendant was or who this gentleman was?

THE COURT: Prior to the hold-up?

Q (Continuing) Prior to the hold-up?

A I seen Harold Ramsey about, roughly two times, I said.

Q Did you ever ask Robert who he was?

A No, I didn't.

Q What attracted your curiosity to the defendant?

A Because I know Robert.

Q Did you ever see Robert stand outside with somebody else?

A I didn't pay attention.

Q Why did you pay attention to this defendant?

A Because I remembered his face.

Q How far away is the Club 801 from your premises?

A Just across the street.

[25] THE COURT: That must be the second or possibly the third time she answered that question of yours. Please, proceed.

MR. AVANZINO: Well, your Honor, she testified—

THE COURT: Please proceed. Next question, Mr. Avanzino.

MR. AVANZINO: I would just like to bring out that she testified it was a hundred and fifty feet. A hundred and fifty feet doesn't constitute across the street.

THE COURT: It all depends how wide the street is.

MR. AVANZINO: Can we go into that?

THE COURT: Ask questions as you see fit. Next question.

Q Where is the Club 801 in relation to the beauty parlor?

A Across the street. It's the opposite side of the street. Franklin Avenue is a one-way. The traffic goes in one direction.

Q What street is your store on?

A My store is on Franklin Avenue.

Q Where is the Club 801, the entrance to that, [26] on what street?

A It's on, I think, I'm not sure. I would say, Lincoln. But, it's in the middle.

THE COURT: It's in the middle of the block?

THE WITNESS: No. The club itself is on the corner of Lincoln Place and Franklin Avenue.

THE COURT: When you saw Robert standing outside with the man that you say is the defendant, where were you standing?

THE WITNESS: Where was I standing?

THE COURT: At the time that you saw him.

THE WITNESS: On one occasion I was driving on the block, coming up Franklin Avenue.

THE COURT: What was the distance separating you from Robert and the defendant at that time?

THE WITNESS: Not much difference.

THE COURT: What was the distance, approximately? Can you indicate to some place in the courtroom, your measurement?

THE WITNESS: I say you are standing in it right now.

THE COURT: How far away would Robert and the defendant be standing in front of the 801 Club?



[27] THE WITNESS: It's not far. Like when I turn, turn a street.

THE COURT: How far is not far? One foot, a hundred feet?

THE WITNESS: I would say, ten.

THE COURT: Okay.

Q Ten feet?

A Twenty or something like that.

Q The second time that you claim that you saw the defendant, how far from the defendant were you at that time?

A It's in the same area. It's in the same vicinity.

Q Ma'am, would you please—

MR. AVANZINO: Your Honor, would you instruct the witness to kindly answer the question?

THE COURT: How far away were you when you saw him the second time? What was the distance separating the two of you, approximately, if you remember?

THE WITNESS: I don't remember. I don't know exactly.

THE COURT: Was it a far distance?

THE WITNESS: No, it's not a far distance. It's near, because everything is right there.

[28] THE COURT: Were you able to see his face?

THE WITNESS: Yes, I know his face.

THE COURT: Were you able to see his face clearly that second time that you saw him?

THE WITNESS: Yes. Twenty years from now I will still remember his face.

THE COURT: The third time that you saw the defendant with Robert—

THE WITNESS: It's all in the same area.

THE COURT: —were you able to see his face clearly at that time?

THE WITNESS: Yes, I saw his face each time.

THE COURT: Proceed.

Q What time of day was it that you saw Harold Ramsey, the first time prior to the hold-up, the first time you ever saw him in your life?

A It's in the morning period. I don't remember exactly what time.

Q Was it in the early morning? Afternoon?

A Not very early.

Q Evening?

A I would normally get out about 10:00 o'clock, thereabouts.

Q Is that the time that you normally go to work?

[29] A Not every day.

Q Was anyone else standing with Robert and the defendant when you saw the defendant?

A No.

Q They were standing alone?

A Yes.

Q Both times that you saw them?

A Yes.

Q Who owns this beauty parlor?

A Who owns the beauty parlor?

Q Yes.

A At that time, my sister.

Q What is your sister's name?

A Monica Faide.

Q The first time that you saw the defendant on the day of the robbery, what time was that, approximately?

A The day of the robbery?

Q Yes.

A Well, it was a little before I finished working. I normally finished between 7:30 and 8:00 o'clock. But, not every day. So, it was about 8:00 o'clock, a quarter after 8:00, something like that.

Q What time do you normally start work?

[30] A Like I said, I have no special time. 10:00 o'clock, roughly. Ten, roughly.

Q During that period of time, about 10:00?

A Roughly.

Q What time did you usually finish? What time did you finish work at or about that time, this period of time that we are discussing now, December of 1974?

A What time did I finish work?

Q Would you finish, yes?

A I don't know exactly. But it was around that time.

Q Well—

A If the robbery took place between 7:30 and 8:00 o'clock, maybe, 8:15, thereabouts.



Q Do you remember the date as being December 30, 1974?

A It was around the holiday season.

Q Let me ask you this. Do you remember the date that you saw Harold Ramsey on the day of the holdup what date that was?

A Do I remember the date?

Q Yes.

A It was round the ending of December.

Q If I tell you that it was December the 30th, would that revive your memory?

[31] A It was. It was December 31st.

Q Pardon me?

A I think it's December 31st.

THE COURT: New Year's Eve?

THE WITNESS: I think New Year's Eve was the Tuesday and that was the Monday.

THE WITNESS: So, it's the day before New Year's Eve?

THE WITNESS: Yes.

THE COURT: New Year's Eve is the 31st.

THE WITNESS: Roughly, yes.

THE COURT: It would be the 30th, correct or incorrect?

THE WITNESS: It was the day before the New Year's.

Q Let me ask you this. What time did you close the store on December 30, 1974?

A I don't remember exactly.

Q December the 30th, 1974, was the day before New Year's Eve, is that right?

A I don't remember exactly.

THE COURT: What time did you close the store on the day of the hold-up, the night of the hold-up, do you remember?

[32] THE WITNESS: Maybe, it was after the police got there.

THE COURT: Next question.

Q Would you have closed the store later because it was a holiday period?

THE COURT: Objection is sustained as to the form. Sua sponte, the District Attorney does not make objection. However, this court cannot sit and listen to things that have nothing to do with this case. Next question. Certainly, not within the four walls of a Wade Hearing.

Q Where was your sister at the time of the hold-up?

MR. HESTER: Objection.

THE COURT: Sustained.

Q When did you first see the police on the night of the hold-up, what time?

A Maybe, about, 8:00 o'clock, a little after 8:00, I think.

Q What police did you see, do you remember?

A His name?

Q Yes.

A No, I don't remember his name.

Q How many policemen were there?

[33] MR. HESTER: I will object to that, your Honor.

THE COURT: I will permit it. Do you know how many policemen came to your store?

THE WITNESS: About two, I think.

Q What did you say to the police and what did they say to you?

A I just told them that this man came—

THE COURT: I can't hear you and I am right next to you.

A (Continuing) This man came and hold up the store. He took out a gun. He said, "Nobody move." He used some obscene language. "Give me the money." He took the money from the drawer and he went into the pocketbooks. He held the gun in the right hand and took the money in the left hand. And like I said, he kept on going backwards and he kept on saying, "Nobody move." He repeated again until he was towards the door. Then, he went. His face was towards me all along.

Q How long would you say that he was in the store?

A Roughly, five to ten minutes.

Q Did you have your eye on the defendant at all times that he was in the store?

[34] A At all times.

Q Didn't you state that you opened the cash drawer?

A I didn't open the cash drawer. I took the drawer out.

Q Did you look down when you took the drawer out?

A I looked at him.

Q You looked at him when you took the drawer out?

A Yes.

Q What else happened that night that the police came?

MR. HESTER: Objection.

THE COURT: Objection sustained.

Q Did the police show you a photograph that purportedly was one of Harold Ramsey's?

MR. HESTER: Objection. At what time is counsel speaking?

THE COURT: Fix a time in your question.

Q At the time that they came to the store for the first time?

A No.

Q Did they later show you a picture?

[35] A Who?

Q Did the police later show you a picture purported to be that of Harold Ramsey?

A Not the same police that came to the store.

Q A different policeman?

A Yes.

Q Is that right?

A Yes.

Q He showed you a photograph of Harold Ramsey, is that right?

A Not one. He showed me several.

Q When he first came to the store, did he show you one picture or several pictures?

A Not the same police who came to the store.

Q The policeman—

THE COURT: Just a moment. There came a time that you saw some photographs?

THE WITNESS: Yes.

THE COURT: Where did that take place?

MR. AVANZINO: If your Honor pleases, that's not the question that I was going to ask.

THE COURT: I want to lay a proper foundation since counsel isn't doing it. Where did this take place?

[36] THE WITNESS: At the store. I found out his name.

THE COURT: Just a moment. Answer my question.

THE WITNESS: At the store.

THE COURT: A policeman came to the store with some photographs, is that right?

THE WITNESS: A detective.

THE COURT: Next question.

Q What policeman came to the store with the detectives, do you remember?

A A detective.

Q A detective, do you remember his name?

A Afterwards, I found out his name.

Q How many photographs did he show you on the first time that he came to your store?

A Several. I don't remember. Maybe, ten, twelve. I don't remember. Several.

Q Are you sure that he didn't show you just one photograph?

A No, he didn't.

Q And later you saw more photographs?

A He did not. He showed me several.

Q Did you ever speak to a Charles T. Grossberger, [37] MAG Investigation and Security Corporation?

A I don't remember. I don't know who he is. I don't remember.

Q Did you ever speak to any investigator concerning this case?

A I spoke with the D.A.

Q Did you speak with any other people from the District Attorney's office?

A I don't recall. Like who? I don't recall. I found out that some of the people has retired. I don't know.

Q I ask you again, Mrs. Walker, do you remember speaking to an investigator named Charles T. Grossberger?

A I don't remember his name.

Q Did you speak to an investigator concerning this alleged hold-up?



A Not from the District Attorney's office. Another investigator.

THE COURT: He is talking about a private investigator. An investigator hired by the lawyer who represents the defendant. Did you speak to someone like that?

THE WITNESS: No.

Q What day did the policeman first show you [38] photographs of the defendant Harold Ramsey, if you remember?

A This was after—I don't remember exactly if it's two days or a week later. But this is—

Q If I suggest to you the date of January 5th, would that be about right?

A I really don't remember exactly. But, it's after the incident.

Q The first time that you saw photographs or a photograph of Harold Ramsey, you claim it was a couple of days after the alleged hold-up, is that correct?

A A couple of days after?

Q Yes.

A I don't remember exactly how many days after. But I know it was after the incident.

Q Did you ever appear at the Brooklyn Robbery Squad office?

A Where is that, may I ask?

THE COURT: Did you ever go to a police precinct?

Q A police precinct?

A No.

THE COURT: Or a police office?

THE WITNESS: No.

[39] THE COURT: You don't recall?

THE WITNESS: No, I don't recall.

Q Did you ever see pictures of the defendant at a precinct?

A No.

Q You were never showed any photos of this defendant at a precinct?

A No.

Q If I mention the name Detective Schultz to you as being the detective on the case, that showed you the photograph of Harold Ramsey, would that ring a bell?

A Yes. Detective Schultz was the one who was, that showed me the pictures.

Q When did you see Detective Schultz for the first time?

A Some time after, after the incident.

Q Did he come to the beauty parlor, Detective Schultz?

A Yes, he came.

Q Was he with anyone else?

A I don't recall. I know him, he came.

Q What time of day was it?

MR. HESTER: Objection.

THE COURT: Objection is sustained.

[40] Q When he first came to your store to show you the photographs of Harold Ramsey, about what time of day was it?

MR. HESTER: Objection.

THE COURT: The objection was sustained just a few minutes ago to the same question.

Q How many photographs of Harold Ramsey did Detective Schultz show you on that date?

THE COURT: Objection is sustained. Asked and answered.

MR. AVANZINO: Your Honor, not to become argumentative with the court, but I don't believe that I ever asked that, Judge.

THE COURT: You most certainly did. And I tell you what her answer was. Her answer was she was shown several photos at the store and then you pressed her and asked her how many. And she said she doesn't know. Several ten to twelve. Is that your testimony?

THE WITNESS: Yes.

MR. AVANZINO: The last question was, how many photographs of Harold Ramsey did he show, Judge.

THE COURT: Just one second. How many times [41] were you shown photographs? Once?

THE WITNESS: Just once I was shown a lot of photographs.

THE COURT: When you saw the ten to twelve photographs, is that what you are talking about, when you saw



a lot of photographs? Was a picture of Harold Ramsey, one or several pictures in there?

THE WITNESS: I recall just one. He was wearing a suit.

THE COURT: You picked out one photograph and that was of Harold Ramsey, is that what you are saying?

THE WITNESS: Yes.

THE COURT: Was there a time that you were shown other photos of Harold Ramsey?

THE WITNESS: No, just that particular time.

THE COURT: Were you ever shown any other photos of anyone else after that time?

THE WITNESS: No.

THE COURT: So, you were shown these photographs only once?

THE WITNESS: Only once.

THE COURT: Okay.

Q Mrs. Walker, do you remember speaking to a—  
[42] MR. AVANZINO: Your Honor, I am trying to be as fast as I can.

THE COURT: I didn't say anything.

MR. AVANZINO: The witness is just bowing her head. She is disgusted.

THE WITNESS: I am not bowing my head.

MR. AVANZINO: The rights of my client—

THE COURT: I haven't noticed her bowing her head. Please, ask your question. In apologizing you are wasting time, you are really wasting time. Only in that respect you are wasting time. Proceed.

Q Do you remember speaking to a Mr. Grossberger?

MR. HESTER: Objection.

THE COURT: It's been asked and answered.

Q Do you remember speaking to a Mr. Grossberger concerning appearing at the Brooklyn Robbery Squad office and viewing twenty photos, twenty mug shots?

A I didn't go anywhere to view the photographs. The detective came to the store and that was it.

Q The detective what?

A The detective Schultz, whatever his name is, I don't remember. He came to the store with a lot of photographs and he showed me quite a few. And there was one that I [43] identified, Harold Ramsey. He was wearing a suit at the time.

Q He was wearing a suit in the photo, is that what you testified?

A Yes.

THE COURT: Yes, that's what she testified to. Next question.

Q Mrs. Walker, when was the last time that you saw Robert?

MR. HESTER: Objection.

THE COURT: Objection is sustained.

MR. AVANZINO: I have no further questions at this time.

THE COURT: Any redirect?

MR. HESTER: No, your Honor.

THE COURT: You may step down. Thank you very much. Remain outside subject to the District Attorney's call. Do you have a second witness?

MR. HESTER: Your Honor, I intended to call a second witness. And in reconsidering what her testimony will be, I realize that I do not have to.

THE COURT: Your answer to my question is, no, you don't intend to call a second witness and therefore it's the People's case for the purpose of [44] this motion.

MR. HESTER: Yes, your Honor.

THE COURT: You rest?

MR. HESTER: The People rest.

THE COURT: That's what I want to know. Thank you. The defendant rests or the defendant wishes to call a witness?

MR. AVANZINO: I wish to call a witness. I don't know if I can get him.

THE COURT: Who do you wish to call?

MR. AVANZINO: The investigator.

THE COURT: Tell me what you expect the investigator to testify to?

MR. AVANZINO: To the fact that he spoke to this lady and she told him certain things which were in direct contradiction to what she said on the stand today.

THE COURT: Such as?

MR. AVANZINO: Such as the fact that—

THE COURT: I am asking you to give us an offer of proof. Please Mr. Avanzino, don't show me any reports from an investigator. I am asking you to give me an offer of proof to determine, whether or not, I should continue this hearing.

[45] MR. AVANZINO: I want to show you the offer of proof.

THE COURT: Tell it to me. The record will reveal the words from your mouth not the words written on your report.

MR. AVANZINO: Very well. The report that I have from the MAG Investigation and Security Corporation states that, "Mrs. Rebecca Walker, originally identified Harold Ramsey. The identification procedure was completely improper as outlined in the following sequence of events.

December 30, 1974 at 8:20, robbery. January 5, 1975, Mrs. Walker notifies Detective Schultz, retired, that she saw a perpetrator in the area and that he hangs around the 801 Club. Detective shows her a picture of Ramsey that day. She agrees that he is the one that robbed her. January the 11th, Mrs. Walker appears at the Brooklyn Robbery Squad office, views twenty photos, mug shots. She selects Harold Ramsey's picture from the group as the perpetrator."

I submit, your Honor, that's in direct contravention what this witness said.

THE COURT: Let's assume he came in and [46] took the stand and testified. What does that have to do with the issue as to, whether or not, this lady knew your client prior to the hold-up and saw him at the time of the hold-up as the perpetrator?

MR. AVANZINO: Well, it wouldn't exactly go to that. It would go to her credibility.

THE COURT: We will continue the voir dire. I will give you until tomorrow at 9:30 to get the investigator in.

MR. AVANZINO: I will call him as soon as I get out, your Honor.

THE COURT: You will call him right now because I am going to give you the opportunity in about three seconds to call him.

MR. AVANZINO: Will your Honor let me go now?

THE COURT: Yes, I will.

MR. AVANZINO: May I use your chambers?

THE COURT: Yes, you may. In the interim, let's get our panel in and the sworn jurors in, so we can proceed as soon as Mr. Avanzino comes back.

MR. HESTER: If I can be excused from the courtroom to send the witness home for the day?

[46A] THE COURT: Go ahead.

\* \* \*

CERTIFIED TO BE A TRUE AND CORRECT  
TRANSCRIPT OF MINUTES IN THIS CASE

/s/ Lawrence Fields  
LAWRENCE FIELDS  
Official Court Reporter

ORDER OF HONORABLE JOHN J. DELURY,  
ENTERED FEBRUARY 3, 1975, DIRECTING AN  
EXAMINATION OF PETITIONER

At a Criminal Term, Part AP 3 of the  
Criminal Court, County of Kings,  
held at the Court House thereof at  
120 Schermerhorn Street on the 3  
day of Feb., 1975

PRESENT

HON.

Presiding

THE PEOPLE OF THE STATE OF NEW YORK

*Against*

HAROLD RAMSEY, DEFENDANT

ORDER DIRECTING MENTAL EXAMINATION  
(CUSTODY)

MENTAL HYGIENE LAW  
SECTION 81.19

Docket No. K504354

Charge 160.15

Filed Jan. 29, 1975

The above named defendant, while in custody, or upon appearance before this Court, having made statements, or showed symptoms, that he is a narcotic addict, or it appearing otherwise that he is a narcotic addict, and said defendant not having heretofore been medically examined for narcotic addiction pursuant to law in connection with this proceeding:

NOW, upon reading and filing the statement of arresting officer dated Jan. 29, 1975, and such other statements and information as may be available, and due

deliberation having been had, and it appearing that defendant is required to be examined pursuant to Mental Hygiene Law Section 81.19 it is hereby

ORDERED, that the above named defendant shall be medically examined to determine if he is a narcotic addict as defined in Article 81 of the Mental Hygiene Law, and it is further

ORDERED, that the defendant be taken by the person or persons having lawful custody of the defendant, to Dept. of Correction, a facility designated by the Drug Abuse Control Commission for the conduct of such examination for defendants in custody, and it is further

ORDERED, that a copy of this order be transmitted forthwith to the examining facility, to the defendant and to the person or persons having lawful custody of said defendant, and it is further

ORDERED, that a report of said medical examination shall be transmitted in triplicate to this Court within 10 days of the signing of this order.

ENTER

/s/ J.J.D.

JOHN J. DELURY



EXAMINATION REPORT,  
DATED FEBRUARY 13, 1975,  
FILED PURSUANT TO ORDER OF  
HONORABLE JOHN J. DELURY

HEALTH AND HOSPITALS CORPORATION  
KINGS COUNTY HOSPITAL CENTER  
Clarkson Avenue, Brooklyn, N.Y. 11203

EXAMINATION REPORT

(Psychiatric examination, C.P.L. Article 730)

STATE OF NEW YORK  
CRIMINAL COURT  
COUNTY OF KINGS  
PART AP-3

THE PEOPLE OF THE STATE OF NEW YORK

*vs.*

HAROLD RAMSEY, DEFENDANT

Docket No. K504354

Indictment No.

Information No.

Charge Robbery 1  
(B Felony)

in violation of § 160.15 PL

We, the undersigned, each duly certified pursuant to law as a qualified psychiatrist, having been designated by Seymour Gers, M.D., Director of Kings County Hospital Center, pursuant to an order signed by Hon. JOHN J. DELURY (Judge) of the Criminal Court, Kings County, dated 2/3/75 to examine the above named defendant, pursuant to Article 730 of the Criminal Procedure Law, to determine if the defendant is an incapacitated defendant, have conducted such examination with

due care and diligence and have come to the following opinion as a result of such examination.

It is the opinion of each of us that the above named defendant does not as a result disease or defect lack capacity to understand the proceedings against him or to assist in his defense.

Nature and extent of examination:

See Attached

/s/ Franklin S. Klaf, M.D.  
FRANKLIN S. KLAF, M.D.

dated 2/12/75

/s/ R. M. Chaitin, M.D.  
RAYMOND M. CHAITIN, M.D.

dated 2/12/75

RE: HAROLD RAMSEY CHART NO. 271218  
WARD: G-63 FEBRUARY 13, 1975

This is a 22 year old black male who was sent from Criminal Court Kings on February 4, 1975. At that time he was charged with having on December 30, 1974 at 8:20 P.M. at 776 Franklin Avenue (a Beauty Parlor) committed a robbery and was in possession of a dangerous weapon (a gun).

The patient has had numerous Correctional institutionalizations since he was 12. He has been at Warwick, Otis, New Hampton, Elmira, Comstock and Rikers Island. He denies any psychiatric hospitalizations however he said: "When I was young I went to Jewish Hospital. I never wanted to go to Matteawan or Mid-Hudson when I was in prison because I watched the guys who came back from Matteawan and they looked worse." The patient has had 5 previous arrests for robberies, etc.

The patient appears to be a rather "street wise" individual. He manipulates by looking downward to the floor and said: "I look down at the floor, I am ashamed I hear voices." He stated "since the age of 14 I have used heroin. I would shoot as much as I can get. There was no limit. I used to steal everyday. I used hashish, opium, lots of cocaine, speed, ups and downs. I have even ripped off drug pushers and dealers. I have taken them over for their drugs and money. I always wanted to shoot somebody. I wanted to but I could not find anybody who got me mad enough. I got a gun from a friend of mine. I don't care about shooting anybody. The voices tell me to kill somebody. I have been hearing those voices since I got out of prison from Comstock in July 1974. I don't want to go home. The voices tell me people want to hurt me." When asked how he was ever hurt by people in view of the fact that he has a wish to kill, he just shrugged his shoulders. When questioned further about his insistence to kill, he said: "I hear God's voice. God wants me to kill." He talks to me since I have been home. I am not religious. I don't have no religion."

His mother was interviewed by our social worker who stated that he presented problems since a child and

attended a 600 school. She also said that sometimes his memory lapses and he screams in his sleep. She relates these problems to his father who used to beat her and the children. The examiners are not over impressed by this as a justifiable reason to want to kill. It is felt that this man must be considered extremely dangerous as his line of demarcation between killing and not killing as very flimsy.

The patient was born in Brooklyn on April 3, 1952. He has a sister and stated: "I always wanted to kill my father; he beat my mother, me and my sister. I once shot a person with a gun but I missed. I didn't him him."

This patient by his own admission has had no previous psychiatric hospitalizations. The fact that he appears to be somewhat depressed as he stated: "I look down at the floor because I am ashamed, I hear voices," is an attempt to manipulate the examiners. He has had a lengthy prison history involved in all types of felonious acts. He warns the examiners that he intends to kill and at one time he did shoot a person and missed. As psychiatrists we must give deep consideration to the patient's own words and his own thoughts. We believe that there may be some non incapacitated thought disorder associated with the voices or that it can be an attempt to manipulate the examiners. It is our combined opinion that we feel that this patient is legally competent and that his present behavior is associated with his dislike of incarceration and the likelihood that with all his years in prison he has acquired the correct answers to give the psychiatrists. It is therefore felt that he is aware of his charges which he explained and also is capable of aiding and assisting counsel in his defense. His explanation is some confused type of numbers winning that the complainant was supposed to have made.

DIAGNOSIS: Drug Dependency, muntiple  
Unspecified psychosis (mild probably)

RECOMMENDATION: Fit to proceed.

RAYMOND M. CHAITIN, M.D./lb  
FRANKLIN S. KLAF, M.D.

HONORABLE GEORGE H. NICOLS' ORDER OF  
OBSERVATION, DATED MARCH 26, 1975

TEMPORARY ORDER OF OBSERVATION  
(C.P.L. Article 730)

STATE OF NEW YORK  
SUPREME COURT  
COUNTY OF KINGS  
PART X1, SPECIAL TERM

Docket No. K-504354/75  
Criminal Court, Kings, AP 3

THE PEOPLE OF THE STATE OF NEW YORK

*vs*

HAROLD RAMSEY, DEFENDANT

The above named defendant, being charged with Robbery 1, (B Felony) in violation of Sec. 160.15 PL such defendant having been examined pursuant to an order of this court by two psychiatric examiners, qualified in accordance with law, an examination report thereon having been made to this court and the District Attorney having been given due notice of such examination report, the court having examined such examination report, a copy of which is hereto attached.

AND a hearing having been held on the 26th day of March, 1975

AND it appearing to my satisfaction that the said defendant as a result of mental disease or defect lacks capacity to understand the proceedings against him or to assist in his own defense,

AND it further appearing that a felony complaint has been filed against the defendant,

NOW, THEREFORE, it is

ORDERED that the above named defendant be committed to the care and custody of the Commissioner of Mental Hygiene for care and treatment in an appropriate institution of the Department of Mental Hygiene to be designated by said Commissioner for a period not to exceed ninety days from the date of this order, and it is further

ORDERED that if the person in charge of the institution in which the defendant is confined determines at any time that the defendant is no longer an incapacitated person, such person shall give notice in writing of such determination to this court and to the District Attorney, and it is further

ORDERED that the defendant, if he be in detention, be continued in detention at Kings County Hosp. Ctr. pending designation of an appropriate institution by the Commissioner of Mental Hygiene, and upon notice by the Commissioner of Mental Hygiene of the designated institution be delivered thereto by

NYC Department of Correction

Dated Mar. 26, 1975

HON. GEORGE H. NICOLS  
Justice  
Special Court  
County of Kings



NOTIFICATION OF FITNESS TO PROCEED  
FILED PURSUANT TO ORDER OF  
HONORABLE GEORGE H. NICOLS

Notification of Fitness to Proceed  
(C.P.L. Article 730)

STATE OF NEW YORK  
CRIMINAL COURT AP 3  
COUNTY OF KINGS

Docket No. K-504354/74

Information No.

Indictment No.

THE PEOPLE OF THE STATE OF NEW YORK

vs

HAROLD RAMSEY, DEFENDANT

TO: The above-named court

TO: District Attorney, Kings County

You are hereby notified that the above-named defendant, who was committed to the custody of the Commissioner of Mental Hygiene by order of this court, dated March 26, 1975 and thereafter retained in such custody by further order or orders of retention each dated NONE and who is now confined, pursuant to designation of said Commissioner, at Mid-Hudson Psychiatric Center Hospital, of which I am in charge, has been determined by me to be no longer an incapacitated person.

You are hereby requested to direct the Sheriff of your county or your local Department of Correction to take custody of the said defendant in accordance with law.

DATED: June 11, 1975

/s/ Erdogan Tekben, M.D.  
ERDOGAN TEK BEN, M.D.  
Director  
MID-HUDSON PSYCHIATRIC CENTER  
Hospital

STATE OF NEW YORK  
DEPARTMENT OF MENTAL HYG  
CLINICAL SUMMARY  
MID-HUDSON PSYCHIATRIC CENTER

Name: Ramsey, Harold  
Ident. No.: 127-63-90  
Hospital No.: 2285  
Sex: Male  
Age at Admission: 23  
Citizenship: U.S.A.  
Date of Admission: 4-2-75  
Marital Status: Single  
Date of Summary: 6-11-75

SUMMARY

This patient was admitted to Mid-Hudson Psychiatric Center on 4-2-75 from Kings County Criminal Court where he had been indicted for the crime of robbery 1st. He was subsequently examined by Dr. Raymond M. Chaitin and Dr. Franklin S. Klaf, both qualified psychiatrists, of the Kings County Hospital Center who found him to be unfit to proceed. From their examination report it would appear that their conclusion was based on the patient's failure to participate in the psychiatric evaluation.

SUMMARY OF PSYCHIATRIC TREATMENT:

*Mental Picture and Attitude on Admission:* On admission the patient was for the most part uncommunicative. He reluctantly stated that he was here because he had been sent here by his mother but later admitted that he was here because he was seen by psychiatrists of Kings County Hospital. He likewise initially denied ever being hospitalized and subsequently stated he had previously been hospitalized. His recall was good and he was quick to point out when the examining physician repeated questions

that had already been answered such as age and date of birth. However the patient did not respond or claim that he did not know the answer to most questions. He was however fully cooperative to the physical examination which was unremarkable.

*Treatment Program:* The patient's treatment program consisted of observation, and milieu therapy.

*Patient's Response to Treatment Program:* The patient's response to treatment program was good in that he displayed no evidence of any psychiatric illness. His comportment on the ward was appropriate. His cooperation with the psychiatric staff on the other hand left something to be desired.

#### COURSE OF ILLNESS:

This young man has experienced difficulties apparently at least as far back as age 10. He has had school problems, truancy, fighting, abuse of alcohol, abuse of drugs, and a number of placements and commitments. He was committed to the Warwick Training School for Boys in January 1967. He was subsequently admitted to the Otisville Training School for Boys as a parole violator from Warwick. He has had numerous arrests for such things as possession of burglary tools, grand larceny auto, robbery, forcible theft, possession of dangerous drugs, criminal possession of weapon, resisting arrest, possession of stolen property, and has had two commitments to D.A.C.C. narcotics centers.

On arrival here the patient continued his previous lack of responsiveness that had been noted at the Kings County Hospital Center. He was initially able to deny all of his known past history with a straight face. On 5-7-75 the patient was seen on the ward after transfer to Oak Hall. He was immediately recognized by a number of the staff members who had worked with him while he was at the training schools he previously at-

tended. He smiled and freely admitted to all of this past history at the time. He was told that his records would be assembled and he would be staffed later in the month with a view toward returning to court. He agreed to this. When he was in fact presented to the staffing conference on 5-29-75 the patient was completely mute. He responded to no questions. He was excused.

As stated the patient was seen on 5-29-75 by Dr. Boyar, Dr. Kearney, and Dr. Hermele in the presence of nursing staff, social service staff and ward staff. On the basis of the patient's past history and the picture he has presented at Mid-Hudson it was the consensus of the examining psychiatrists that the patient evidenced no psychiatric illness that would prevent him from being returned to the custody of the Kings County Authorities to proceed in the disposition of his legal charges.

*Diagnosis:* Anti-Social Personality (301.7)

*Condition:* Good.

*Medications:* None.

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S. HEREMELE, M.D./rej

HONORABLE LARRY M. VETRANO'S ORDER  
FOR THE EXAMINATION OF PETITIONER,  
ENTERED ON JUNE 18, 1975

At a Criminal Term, Part 1A of the  
Supreme Court of the State of New  
York held in and for the County of  
Kings, at the Courthouse located at  
Civic Center at Montague Street,  
Brooklyn, New York, on the 18 day  
of June 1975

PRESENT:

HON. Larry M. Vetrano  
JUSTICE

Indictment No. 431/75

THE PEOPLE OF THE STATE OF NEW YORK, PLAINTIFF

—against—

HAROLD RAMSEY, DEFENDANT

ORDER FOR EXAMINATION PURSUANT TO  
THE PROVISIONS OF ARTICLE 730 OF THE  
CRIMINAL PROCEDURE LAW

The above-named defendant being before the Court  
charged with Robbery 1

and the Court being of the opinion that said defendant  
is an incapacitated person as defined in Article 730 of  
the Criminal Procedure Law,

NOW, on motion of the Court, it is

ORDERED, that the said defendant be examined for  
the purpose of determining if he is an incapacitated  
person, and the Court directs that the examination be  
conducted at the place where the defendant is being held  
in custody unless the Director shall determine that hos-  
pital confinement of the defendant is necessary for an  
effective examination, in which event the Commissioner

of Corrections is hereby directed to deliver the defendant  
to a hospital designated by the Director and to hold him  
in custody therein, under sufficient guard, until the ex-  
amination is completed, for a period not exceeding thirty  
(30) days;

and it is further

ORDERED, that the Director notify the defendant's  
attorney, E. Quinn 470 14th Street Brooklyn N.Y. and  
the District Attorney of the time and place of said ex-  
amination, and it is further,

ORDERED, that upon the completion of said examina-  
tion, reports thereof be submitted by the Director to this  
Court pursuant to Section 730.20, subd. 5 of the Criminal  
Procedure Law, and the Clerk of the Court furnish a  
copy of said report to the attorney for the defendant  
and to the District Attorney.

ENTER

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J.S.C.



EXAMINATION REPORT FILED PURSUANT TO  
ORDER OF HONORABLE LARRY M. VETRANO

NEW YORK CITY  
HEALTH AND HOSPITALS CORPORATION  
KINGS COUNTY HOSPITAL CENTER  
Clarkson Avenue, Brooklyn, N.Y. 11203

EXAMINATION REPORT

(Psychiatric examination, C.P.L. Article 730)

STATE OF NEW YORK  
SUPREME COURT  
COUNTY OF KINGS  
PART 1A

Docket No.

Indictment No. 431/75

Information No.

Charge Robbery 1 (B Felony)  
in violation of § 160.15 PL

THE PEOPLE OF THE STATE OF NEW YORK

*vs*

HAROLD RAMSEY, DEFENDANT

We, the undersigned, each duly certified pursuant to law as a qualified psychiatrist, having been designated by Seymour Gers, M.D., Director of Kings County Hospital Center, pursuant to an order signed by Hon. Larry M. Vetrano (Justice) of the Supreme Court, Kings County, dated 6/18/75 to examine the above named defendant, pursuant to Article 730 of the Criminal Procedure Law, to determine if the defendant is an incapacitated defendant, have conducted such examination with due care and diligence and have come to the following opinion as a result of such examination.

It is the opinion of each of us that the above named defendant does not as a result of mental disease or defect lack capacity to understand the proceedings against him or to assist in his defense.

Nature and extent of examination:

See Attached

/s/ Adolph Goldman, M.D.  
ADOLPH GOLDMAN, M.D.

dated July 11, 1975

/s/ Richard L. Weidenbacher, M.D.  
RICHARD L. WEIDENBACHER, M.D.

dated 7-16-75

RE: HAROLD RAMSEY  
WARD: G-63

NO. 277698  
JULY 11, 1975

This defendant examined at Kings County Hospital after having been returned from Mid Hudson Psychiatric Center has been indicted for two robberies. It is alleged that on 12/30/74 he threatened various persons in a beauty shop, displayed a gun and took money. It is alleged that on January 20, 1975 in concert with another person he threatened persons with a gun in a candy store, and took money.

The court papers indicate that this defendant was returned as no longer incapacitated from Mid Hudson Psychiatric Center on 4/2/75. He had been evaluated in Kings County Hospital subsequent to these offenses on two occasions. He was returned to the court on 2/10/75 as fit to proceed. He was found incapacitated on March 13, 1975 when he verbalized suicidal ideas.

At the present time the defendant seems to be malingering a psychiatric condition. After he had been requested to accompany me to the interviewing room he shook my hand. This seemed to be a gesture of friendliness because at our last meeting at the Supreme Court he had behaved in an extremely menacing manner. He mentioned that he eats and sleeps and his mother visited him since he has been here.

When the questions related to the offense was brought up, the defendant sat in a chair and rocked and mumbled to himself. He made no replies. The interviewer carried on a monologue with him reviewing the charges and many of the statements he had made about himself in the past. After some time he was asked about the CIA. He mentioned the CIA is all around you. Asked about imaginary voices, he said he had been hearing voices since the age of seven. The defendant calmly took a cigarette from a pack and asked verbally for a match.

The nurse on the ward reported that the defendant spontaneously went to her and asked to be examined

about a skin condition. On the ward he is most cooperative and shows no signs of confusion.

The defendant made no references to ideas of suicide today and did not seem to be clinically depressed at all.

*DIAGNOSIS:* Malingering

*DISPOSITION:* Fit to proceed

ADOLPH GOLDMAN, M.D./ms

RE: HAROLD RAMSEY      CHART NO. 277698  
WARD: G-63              JULY 16, 1975

On further examination today, the picture essentially is that of an angry, unhappy, brooding man. His responses to queries were often delayed, and they were generally minimal responses, but these responses were all relevant and coherent. When queried some with regard to the charges against him, he responded impatiently and angrily "I didn't do nothing." He also asked angrily "why do you (psychiatrists) keep asking me what I did (?) (or words to this effect). Asked what plans he might have with regard legal defense, the defendant remained silent. He seemed not to wish to address himself to this question.

On one or two occasions during interview today, he spoke spontaneously, there is no unstable symptoms of emotional or mental disturbance on his part; the manner in which he spoke, as well as words, suggest artifice or affection of illness. Thus: "I was riding a snail and a pigeon kicked my head." This report or complaint is rather advertised than confided to the examiner. The defendant also asked the examiner to "tell him" why the CIA is investigating him.

The defendant speaks of use of heroin and Speed (amphetamines), and there are tracks of both his forearms. He indicates that he was making use of drugs around the time of the reported offenses.

He spoke also of having been disturbed emotionally, in effect, when he was young, and he relates this disturbance to the behavior of his father, who is said to have abused the family. "I ran away . . . he's going to get his." He was sent to Willowbrook State School around 13 years ago, and presumably described as retarded at that time. He does not appear retarded presently. It may be that a diagnosis of retardation was made erroneously, it may also be that the defendant was stigmatized and hurt by placement at Willowbrook.

DIAGNOSIS: Personality disorder, unspecified type, with a history of drug use, including heroin.

RECOMMENDATION: Fit to proceed.

COMMENT: The defendant appears anxious and unhappy at present, but there is no evidence of confusion or psychosis.

RICHARD L. WEIDENBACHER, M.D./lb



PROBATION REPORT, DATED NOVEMBER 5, 1975,  
SUBMITTED TO HONORABLE LARRY M. VET-  
TRANO IN AID OF SENTENCING PETITIONER  
PURSUANT TO HIS PLEA OF GUILTY TO KINGS  
COUNTY INDICTMENT NUMBER 431/75

DEPARTMENT OF PROBATION  
CITY OF NEW YORK  
ADULT COURT SERVICES  
KINGS SUPREME COURT  
SECOND JUDICIAL DISTRICT

To: Honorable Larry M. Vetrano  
Justice—Supreme Court

Re: Recommendation as to Sentence  
HAROLD RAMSEY CASE NO. 109696

The defendant and one other (2 to 4 years, SDCS) robbed the proprietor of a candy store at gunpoint. At the time of arrest, the defendant was in possession of a knife and his associate was in possession of a gun. Necessary force was used to apprehend the defendant as he resisted arrest. The defendant could not be interviewed as he was unresponsive to all questions. Indictment No. 2588/75 (the defendant robbed the occupants of a beauty salon at gunpoint) has been consolidated into the present indictment.

Ramsey, 23, has two juvenile arrests that resulted in probation and several training school commitments and four prior and one subsequent adult arrests revealing a pattern of armed robbery for which he has received a N.Y.S. Reformatory sentence (he violated parole and was sent back to prison). His custodial adjustment was below average. The defendant has a drug background and was civilly committed to DACC. While he was under DACC supervision he absconded twice and was arrested three times. He was finally discharged while he was serving a reformatory term. The defendant comes from an unfavorable family background. A discipline problem at home and in school, he was placed in a 600 school

before dropping out. The defendant has undergone psychiatric examinations in connection with the present offense and consolidated indictment and, at point, he was found unfit to proceed and was admitted to Mid-Hudson Psychiatric Center, where he stayed from April to June 1975. His last two examinations found him fit to proceed. On July 11, 1975, Doctor Goldman made the following diagnosis: "Malingering". The following is extracted from a psychiatric examination ordered in Brooklyn Criminal Court with connection with the consolidated offense: "We believe that there may be some non-incompacitative thought disorder associated with the voices or that it can be an attempt to manipulate the examiner. It is our combined opinion that we feel that this patient is legally competent and that his present behavior is associated with his dislike of incarceration and the likelihood that with all his years in prison he has acquired the correct answers to give the psychiatrists".

This defendant appears to be a second felony offender and therefore a mandatory prison sentence is in order.

Respectfully submitted,

HERMAN METNETSKY  
Supervising Probation Officer

APPROVED: J. P. ADAMO  
Branch Chief

ORDER OF HONORABLE LARRY M. VETRANO  
DIRECTING AN EXAMINATION IN AID OF  
SENTENCE, ENTERED ON NOVEMBER 7, 1975

At a Criminal Term, Part 1A of the  
Supreme Court of the State of  
New York, held in and for the  
County of Kings, at the Courthouse  
located at Civic Center and Mon-  
tague Street, Brooklyn, New York,  
on the 7th day of November 1975

PRESENT:

HON. Larry M. Vetrano  
JUSTICE.

Indictment No. 431/75

THE PEOPLE OF THE STATE OF NEW YORK, PLAINTIFF

—against—

HAROLD RAMSEY, DEFENDANT

EXAMINATION IN AID OF SENTENCE  
PURSUANT TO SEC. 390.30 C.P.L.

The above-named defendant, Harold Ramsey having  
been convicted of the offense of Robbery 2 and it ap-  
pearing to the satisfaction of the Court that a physical  
or mental examination of the said defendant, prior to  
sentence, is necessary to aid the court in sentencing said  
defendant, it is

ORDERED, that the said defendant be examined for  
this purpose, and the court directs that the examination  
be:

conducted at the place where the defendant is being  
held in custody unless the Director shall determine  
that hospital confinement of the defendant is neces-  
sary for an effective examination in which event the  
Commissioner of Correction is hereby directed to

deliver the defendant to a hospital designated by the  
Director and to hold him in custody therein, under  
sufficient guard, until the examination is completed,  
for a period not exceeding thirty (30) days;

and it is further

ORDERED, that, upon completion of said examina-  
tion, a report containing findings and conclusions be made  
to this Court.

ENTER

/s/ Larry M. Vetrano  
LARRY M. VETRANO  
J.S.C.

EXAMINATION REPORT SUBMITTED,  
PURSUANT TO COURT ORDER,  
IN AID OF SENTENCE

(Psychiatric examination, C.P.L. Article 730)

STATE OF NEW YORK  
SUPREME COURT  
COUNTY OF KINGS  
PART IA

EXAMINATION IN AID OF SENTENCE  
PURSUANT TO SEC. 390.30 CPL

Docket No.

Indictment No. 431/75

Information No.

Charge Robbery 2  
in violation of § 160.10 PL

THE PEOPLE OF THE STATE OF NEW YORK

vs

HAROLD RAMSEY, DEFENDANT

We, the undersigned, each duly certified pursuant to law as a qualified psychiatrist, having been designated by Seymour Gers, M.D., Director of Kings County Hospital Center, pursuant to an order signed by Hon. Vetrano (Justice) of the Superior court, Kings county, dated 11/7/75 to examine the above named defendant, pursuant to Article 730 of the Criminal Procedure Law, to determine if the defendant is an incapacitated defendant, have conducted such examination with due care and diligence and have come to the following opinion as a result of such examination.

It is the opinion of each of us that the above named defendant does not as a result of mental disease or defect lack capacity to understand the proceedings against him or to assist in his defense.

Nature and extent of examination:

(SEE ATTACHED)

RICHARD L. WEIDENBACHER  
dated 12-12-75



RE: HAROLD RAMSEY      CHART S-2635  
 DECEMBER 12, 1975

This 23 year old individual has been convicted of Robbery in the Second Degree. He and another person are said to have taken money from a man at gunpoint, on January 20, 1975. He is reported also, singly, to have taken money from two women at gunpoint, on December 30, 1974. Indictments relating to the two offenses were consolidated, and the defendant was charged with Robbery in the First Degree (two counts), Robbery in the Second Degree, and certain lesser offenses. He pled guilty on September 8, 1975 to the charge of which he now stands convicted. Currently, he awaits sentence.

The defendant has run afoul of the law on a number of occasions over a period of some ten years altogether. It is noted that he has been charged with Robbery repeatedly. It is noted further that he was convicted of Attempted Robbery in the First Degree in 1971, and that the instant conviction therefore constitutes his second felony conviction.

The history, in addition to chronic or repeated delinquent and anti-social behavior during adolescence and young adult life, with repeated placement in state training schools, includes drug use, with use of heroin. There is also a history of psychiatric evaluation and treatment, at least in conjunction with legal straits. The defendant underwent psychiatric evaluation at Kings County Hospital in the wake of his arrest in January, 1975, was rated incapacitated, and transferred to Mid-Hudson Psychiatric Center. It seems likely that his apparent incapacity was due rather to negativism or perhaps depression, than to psychosis. He is known to the undersigned psychiatrist by virtue of interview at Kings County Hospital in the wake of his return to court from Mid-Hudson Psychiatric Center. When examined in July, 1975, he appeared anxious and unhappy, but neither confused nor psychotic.

He presents at interview this afternoon as an alert, attentive, and responsive individual, but as a quite angry,

irritable and hostile one. He seems to be in good physical health. All his responses to questions were relevant and coherent, although he was impatient, complained of injustices done him generally, and from time to time spiced his language with epithets. During interview, he asserted that he had hallucinated "one time, when he first went to Mid-Hudson", but there is certainly no evidence of current hallucination. Again, although the picture is one of general disaffection and personality disorder of some magnitude and standing, there is no evidence of delusion. Indeed, the defendant expressed indignation or frustration with regard to the current interview, rather demanding to know why it had been ordered. In this connection, however, he soon came to recall: "I got upset in court", and went on to express dissatisfaction with his attorney and his plea.

He understands his legal straits, and fairly clearly, it is his good comprehension of them which explains his unhappiness. He knows that he pled guilty three months ago to Robbery in the Second Degree, and that a sentence of imprisonment will be forthcoming. "He promised me seven years". He continued: "I'm taking my plea back"; he complained that he had been "railroaded". He gave the examiner to understand that he had committed no crime.

A number of salient data of the personal and family history have been included in the Probation Report, dated October 31, 1975. One notes especially that the defendant's father is said to have been a heavy drinker, abusive, and assaultive. His mother and father separated during his mid-childhood, and the boy was soon beyond his mother's control, apparently. He is said to have run away from home during early adolescence, drunk alcohol, and associated with undesirable companions. Subsequently, he made use of drugs, by his own admission.

Although the intellectual capacity and function of the defendant are probably no better than average or dull-normal, it would appear that social and emotional factors account for the disturbed development of his personality. It is possible that he was affected during child-

hood by subtle brain dysfunction, but no good evidence thereof has been reported. There is no history of seizure disorder.

**DIAGNOSIS:** Personality Disorder, Unspecified Type, with a History of Drug Use (Multiple, including Heroin).

**CONCLUSION:** Fit to proceed.

**RECOMMENDATION:** From a psychiatric point of view, the picture is one of personality disorder of some magnitude and standing; the personality structure of the defendant includes passive-aggressive and anti-social features. It seems clear that this structure has been reared upon a basic if veiled core of frustrated dependent needs, with chronic, inarticulate anxiety and depression. His drug use has both illustrated the difficulty, and complicated his life and that of other persons. He seems an individual of about average or dull-normal intrinsic intelligence. There is no evidence of psychosis.

A period of confinement is recommended by way of sentence. The history and findings during interview argue that the defendant is quite immature socially, and that the outlook must be considered guarded for a while to come: he must be considered dangerous at this juncture. Accordingly, it is urged that his release from prison be deliberate, and not hasty. It is also recommended that every effort be made to educate the defendant further during confinement, and that special attention be accorded vocational training. It may be that self-esteem and true self-sufficiency can be enhanced substantially and tactfully by this means.

/s/ R.L.W.  
RICHARD L. WEIDENBACHER, M.D./can

ORDER OF HONORABLE GERALD S. HELD  
ADJUDGING PETITIONER  
IN CONTEMPT OF COURT

ORDER OF COMMITMENT

CONTEMPT OF COURT

COMMITTED IN PRESENCE OF  
GERALD S. HELD  
Justice of the Supreme Court  
of the State of New York

SUPREME COURT OF THE  
STATE OF NEW YORK  
COUNTY OF KINGS, PART 52

Ind. #2588/75

In the Matter of the Criminal Contempt  
—of—  
HAROLD RAMSEY

At a session of the Supreme Court of the State of New York, Part 52, held in and for the County of Kings on September 17, 1976, at Supreme Court Building, Civic Center, in the County of Kings, City and State of New York, the above-named person did: defy the dignity and authority of the court by open, blatant and contemptuous conduct, and acted in a disorderly, contemptuous and insolent manner, in that he threatened the court with physical harm, continuously interrupted the court, called the court vile and filthy names, and acted and conducted himself boisterously. The above behavior was committed during the sitting of the court, and in its immediate view and presence, and directly tended to interrupt its proceedings and to impair the respect due to its authority, and defendant is thereby guilty of disorderly, contemptuous and insolent behavior in the immediate view and presence of the court, in that the acts heretofore mentioned directly interrupted the proceed-

ings of the court and tended to impair the respect due the court.

IT IS THEREFORE ORDERED AND ADJUDGED that said HAROLD RAMSEY is guilty of criminal contempt of court committed in the immediate view, hearing and presence of the court; and it is

FURTHER ORDERED, that HAROLD RAMSEY be summarily punished for criminal contempt of court, and it is

FURTHER ORDERED AND ADJUDGED, that said HAROLD RAMSEY be imprisoned in the common jail in the County of Kings for a period of 30 days after commitment.

IN WITNESS WHEREOF, I, GERALD S. HELD, a Justice of the Supreme Court of the State of New York, who presided over the session of the court at which the above-mentioned acts were committed in my immediate view, hearing and presence, have hereunto set my hand, subscribed my name, and caused the seal of the court to be affixed hereunto on this 17th day of September 1976.

/s/ G.S.H.  
Justice of the Supreme Court  
of the State of New York

[SEAL]

SUPREME COURT OF THE UNITED STATES

No. 77-6540

HAROLD RAMSEY, PETITIONER

v.

NEW YORK

On PETITION FOR WRIT OF CERTIORARI to the Appellate Division, Supreme Court of the State of New York, Second Judicial Dept.

ON CONSIDERATION of the motion for leave to proceed herein *in forma pauperis* and of the petition for writ of certiorari, it is ordered by this Court that the motion to proceed *in forma pauperis* be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby, granted.

October 10, 1978